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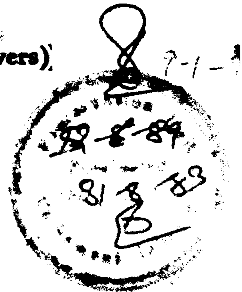
PARLIAMENTARY DEBATES

(Part I—Questions and Answers)



OFFICIAL REPORT

VOLUME VI, 1951

(5th February to 31st March, 1951)

Third Session (Second Part)

of the

PARLIAMENT OF INDIA

1951

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

PARLIAMENT OF INDIA

Friday 16th February, 1951

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

[MR. SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS

HOUSES BUILT IN DELHI

*1490. **Shri Raj Kanwar:** Will the Minister of **Health** be pleased to state the total number of houses built in (a) Delhi and (b) New Delhi during the past five years by (i) Government (ii) Local Bodies and (iii) private individuals?

The Minister of Health (Rajkumari Amrit Kaur): A statement containing the information required is laid on the Table of the House. [*See* Appendix XII, annexure No. 1.]

Shri Raj Kanwar: Considering the present population of Delhi and New Delhi and their anticipated growth during the next few years, have Government considered or formulated in consultation with the Planning Commission or otherwise any building programme for the next five or seven years?

Rajkumari Amrit Kaur: Building programmes are always there for all the Ministries.

Shri Raj Kanwar: How many more houses are required to be built in Delhi to relieve the acute shortage of housing accommodation?

Rajkumari Amrit Kaur: I am afraid I am unable to give the exact number required.

Shri Raj Kanwar: At least the approximate number?

Mr. Speaker: Order, order.

Shri Raj Kanwar: Have Government formed any estimate of the number of people in the country who are at present without roofed accommodation?

Mr. Speaker: Order, order.

Dr. M. V. Ganbadhara Siva: May I know how many houses are built exclusively for the use of the menial servants of the various departments of Government and whether they are suitably accommodated with sanitary fittings and other comforts in accordance with the other buildings in New and Old Delhi which have been built by private individuals and big industrial concerns?

Mr. Speaker: Order, order.

گیانی جی - ایس مسافر : کیا یہ ٹھیک ہے کہ بہت سے ایسے لوگ جن کے پاس یہاں دہلی میں پلاٹس، ہیں وہ بلڈنگ میٹیریل نہ ملنے کی وجہ سے مکان نہیں بنا سکے ؟

[**Giani G. S. Musafir:** Is it a fact that some persons possessing plots of lands in Delhi could not build houses thereupon due to unavailability of building materials?]

राजकुमारी अमृत कौर : मुमकिन है कि ऐसा एक वक्त था । लेकिन मेरे ख्याल में आज तो यह सवाल नहीं उठता । बिल्डिंग मटीरियल मिल सकता है ।

[**Rajkumari Amrit Kaur:** Possibly there was such a time. But, I think, today this question does not arise. The building material is available.]

Dr. M. M. Das: Is it a fact that the exorbitant charge made by the Government for the use of vacant lands within the compounds of existing buildings contributes to a great extent to the small number of houses being built in the City?

Rajkumari Amrit Kaur: As a matter of fact that policy of the Government has been reversed. The difficulty was that people complained that they could not build within their compounds without incurring heavy expenditure and that has now been removed.

PSYCHOLOGICAL TESTS

*1491. **Shri Raj Kanwar:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether any psychological test is held for recruitment of candidates to the higher services of the country, such as the Indian Administrative Service, Indian Police Service, Indian Foreign Service, Ambassadorial appointments etc.;

(b) if the reply to part (a) above be in the affirmative, how such test is conducted *i.e.* whether by means of written questions and answers or orally or by a psychological expert interviewing the candidates; and

(c) whether there is any psychological expert on the Union Public Service Commission?

The Minister of Home Affairs (Shri Rajagopalachari): (a) No.

(b) Does not arise.

(c) No

Shri Raj Kanwar: Do Government propose to appoint any psychological expert on the Union Public Service Commission and also advise State Governments to do so?

Shri Rajagopalachari: The question of selection by psychological tests has been before the Government for sometime and I might mention for the information of the hon. Member that at the end of the last war when the Special Civil Selection Board was operating to take on war service candidates the Defence Services psychological experts were utilised but now the position is different. Unless we wish to take the risk of a new kind of error we cannot appoint any competent psychological experts and take the consequences. We cannot also spend a vast amount of money to get people trained in psychological tests and get them back for the purpose of being utilised in the selection of service candidates. There is also the difficulty of the difference between the psychological tests necessary for this country and what would be satisfactory in other countries. Taking all these difficulties into consideration we have no intention either of appointing now an outsider or sending up people from our own country for being specially trained abroad for this purpose. That is the position.

Shri Raj Kanwar: Will the question be borne in mind for the future?

Shri Rajagopalachari: Yes, Sir. It is very much kept in mind. We know now unsatisfactory selections are.

Dr. Deshmukh: As an experiment will Government be pleased to start with the prospective Ministers and apply psychological tests to them before their appointments?

Shri Rajagopalachari: And for Parliament Members too!

Mr. Speaker: Order, order. I must express my strong disapproval of questions making such insinuations.

Shri R. Velayudhan: May I know whether it is the information of the hon. Minister that there are no properly qualified psychologists in the country to be appointed on the Union Public Service Commission?

Shri Rajagopalachari: Yes, Sir. The opinion that we hold is that we do not have sufficiently qualified psychological experts who can be well utilised for this purpose.

Shri Kamath: After selection to various services are the probationers put through a course in human and social psychology?

Shri Rajagopalachari: Those who are selected are made to go through practical courses applicable to the cadre which they have to join. If anyone is to be appointed for psychological or social work of course he will go through such a course.

Dr. M. M. Das: May I know whether the psychological tests mentioned by the hon. Minister is the same as the intelligence co-efficient tests which were carried out and if so, may I know whether there is any arrangement in the U.P.S.C. to conduct these intelligence co-efficient tests?

Shri Rajagopalachari: There is first of all the intelligence test. Then there is in the scheme of psychological tests, a certain group of practical experimental tests which are gone through for sometime. They are not merely intelligence tests but also relate to temperament, capacity to govern or rule, get work done and the like. There are several things which go to make up the psychological tests.

Rev. D'Souza: Are we to take it from the hon. Minister's statement that there is evidence that this method of psychological tests has been proved to be genuine and effective and therefore when men are available they would apply the tests? If so, are

they aware that in applying them in regard to army selections a great deal of dissatisfaction was expressed in England and elsewhere and that the answer is not so conclusive as it may appear?

Shri Rajagopalachari: The hon. Member has put it fairly correctly. This matter is still in all countries a subject of controversy, experiment, trial and error. We are awaiting the result. Luckily we are still awaiting the result and not doing anything in this direction. We are also enforced by principles of economy and by the actual fact that we have not trained men available in our country. The Government is aware of the fact that it is not quite a settled matter even in foreign countries where the experiment has been tried. In fact in England they are now comparing the results of the normal written and oral tests with the psychological tests in different batches and we are still awaiting the result.

STATE INVESTMENTS

***1492. Shri A. C. Guha:** Will the Minister of **Finance** be pleased to state:

(a) what have been the investments of the Government of India in commercial concerns. Industrial concerns and Corporations in the years 1948-49, 1949-50 and 1950-51;

(b) how many of these have been bringing any profit and how many are incurring loss; and

(c) how many of these are in fully State-owned establishments, how many are in limited companies and how many are in the forms of corporations?

The Minister of Finance (Shri C. D. Deshmukh): (a) to (c). The information required is being collected and will be laid on the Table.

Shri A. C. Guha: Are any of the concerns started by Government going to be converted into limited companies?

Shri C. D. Deshmukh: I think one is already a limited company, namely the Hindustan Aircraft Ltd. The others will also be gradually converted into limited companies.

Shri A. C. Guha: Will any private money be taken when they are converted into limited companies?

Shri C. D. Deshmukh: No.

Mr. Speaker: This matter was pursued sometime ago last week and a number of questions on this point were answered.

Shri A. C. Guha: Not exactly on this point.

Mr. Speaker: It may not be exactly on this point but generally the points of enquiry now covered. I believe it was the Finance Minister who answered them.

Shri C. D. Deshmukh: I answered a good many questions on this matter. The answer to this particular question is that there will be no outside capital in these companies.

Shri B. R. Bhagat: May I know whether and in what manner financial control is exercised on these State enterprises or corporations?

Shri C. D. Deshmukh: In two ways: (i) they will be receiving directives from Government and (ii) a representative of the Finance Ministry will be associated with the day to day work of management, on the boards or other managing bodies of these companies.

Shri Jhunjhunwala: May I know what is the nature of the commercial concerns which the Government runs?

What commerce do they carry on?

Shri C. D. Deshmukh: Sir, I said that information is being collected. The last few questions that I answered were about industrial enterprises. The scope of this question is wider.

Shri A. C. Guha: May we know when we can expect the full answer to this question?

Shri C. D. Deshmukh: It should not take very long to collect the information, although the notice was not quite long enough to enable me to place it before the House today.

IMPERIAL BANK

***1493. Shri A. C. Guha:** (a) Will the Minister of **Finance** be pleased to state what have been the Government payments to the Imperial Bank year by year from 1940 to 1949?

(b) What was the cost to the Imperial Bank for handling and managing Government money?

(c) On what basis or terms these payments have been made?

The Minister of Finance (Shri C. D. Deshmukh): (a) and (b). A statement showing the remuneration paid under paragraph 5 (a) of the Agreement and also the payments made under paragraph 6 of the Agreement for maintenance of a minimum number of branches to the Imperial Bank of India by the Reserve Bank of India and also the estimated cost to the

Imperial Bank of India of conducting Government business during the years 1940 to 1949 is laid on the Table. [*See* Appendix XII, annexure No. 2.]

(c) In accordance with the Agreement concluded between the Reserve Bank of India and the Imperial Bank of India (in terms of section 45 of the Reserve Bank of India Act, 1934, read with the Third Schedule thereto), during the first ten years of the Agreement, the remuneration to the Imperial Bank of India was on the following scale:

At 1/16th of 1 per cent. on the first 250 crores of rupees and

At 1/32nd of 1 per cent. on the remainder of the total of the receipts and disbursements dealt with annually on account of Government by the Imperial Bank on behalf of the Reserve Bank.

This scale was revised in 1945 in terms of the provisions of paragraph 5(a) of the Agreement and the scale fixed for the quinquennium (1945 to 1950) was as follows:

On the first 150 crores, at 1/16th of 1 per cent.

On the next 150 crores over 150 crores, at 1/32nd of 1 per cent.

On the next 300 crores over 300 crores, at 1/64th of 1 per cent.

On the remainder of the total of receipts and disbursements dealt with annually on account of Government by the Imperial Bank on behalf of the Reserve Bank, at 1/128th of 1 per cent.

In addition, under para. 6 of the Agreement, the Imperial Bank of India is also entitled to the following payments in consideration for the maintenance of branches not less in number than those existing at the time the Agreement came into force:

(i) during the first five years of this agreement—nine lakhs of rupees per annum;
(ii) during the next five years of the agreement—six lakhs of rupees per annum; and
(iii) during the next five years of the agreement—four lakhs of rupees per annum.

Shri A. C. Guha: May I know what is the total amount of Government money handled by the Imperial Bank in these years?

Shri C. D. Deshmukh: I take it that the question is in regard to turnover of Government transactions on which this is based?

Mr. Speaker: Yes.

Shri C. D. Deshmukh: It is as follows:

1940	...	Rs. 326 crores.
1941	...	Rs. 416 crores.
1942	...	Rs. 620 crores.
1943	...	Rs. 1013 crores.
1944	...	Rs. 1166 crores.
1945	...	Rs. 1210 crores.
1946	...	Rs. 1143 crores.
1947	...	Rs. 1122 crores.
1948	...	Rs. 1020 crores.
1949	...	Rs. 1092 crores.

Shri A. C. Guha: From the statement laid on the Table it appears that from 1946 the loss incurred by the Imperial Bank in handling the Government money has been increasing. Before 1946 there was a net profit but since 1946 the loss incurred increased from one lakh to ten lakhs. What is the reason for this increase in the cost for handling the Government money?

Shri C. D. Deshmukh: The pay scales have gone up and the remuneration of staff has gone up on account of awards and so on. All that, I have no doubt, is reflected in their costs.

Shri A. C. Guha: Are we to understand that this loss is mainly due to the rise in the administrative expenses?

Shri C. D. Deshmukh: That is right. I may add that these figures are checked by arrangement with the Auditor-General every year.

Shri Sidhva: May I know whether any interest is earned by Government on the amounts that have been invested with the Imperial Bank?

Shri C. D. Deshmukh: Government has no amount invested with the Imperial Bank.

Shri Sidhva: What about the current balances?

Shri C. D. Deshmukh: No. Government maintains an account with the Reserve Bank.

Shri Sidhva: Where there is no branch of the Reserve Bank and there is a branch of the Imperial Bank, the Imperial Bank does handle some money of the Government. Do they pay interest on such amounts?

Shri C. D. Deshmukh: No interest is received on treasury balances which are kept with the Imperial Bank.

Shri A. C. Guha: Is there any agreement on the part of the Government to compensate the loss of the Imperial Bank in handling Government money?

Shri C. D. Deshmukh: There is no question of compensation. Once an agreement is made, then the Imperial Bank stands to gain or lose according as their costs are arranged and according as the transaction develops. In the first five years they had a large fortuitous profit and in the subsequent years they are incurring a smaller loss.

Shri Deshbandhu Gupta: In view of the admission made by the hon. Minister that the Imperial Bank has been incurring losses on account of the recent awards, may I know whether Government have considered the adverse effect of the award on other banks, and if so are any steps being taken by Government to meet the same?

Shri C. D. Deshmukh: I think the losses are not comparable. Here there is a loss on a particular agreement, whereas the question raised by the hon. Member is in regard to losses, if any, which are incurred by banks in their general operation. In the first place it is not quite clear that they are incurring any losses.

Shri Dwivedi: May I know whether there is a proposal before the Government to convert some of the State Banks of Part C States into branches of the Imperial Bank of India?

Shri C. D. Desmukh: No, Sir.

Shri A. C. Guha: From the statement laid on the Table it appears that the expenditure incurred by the Imperial Bank in 1947 was Rs. 23 lakhs, in 1948 it was Rs. 27 lakhs and in 1949 Rs. 32 lakhs. The hon. Minister has stated that there is a periodic check by the Government. Is the Government satisfied that this abnormal rise in that expenditure was justified?

Shri C. D. Deshmukh: Well, this is a matter of record. No greater amount is paid to them, than is payable under the scale agreed upon, because of the increase in expenditure.

Shri A. C. Guha: My point was not the payment made but the rise in the expenditure of the Imperial Bank in handling Government of India money. There has been an abnormal rise: from 23 lakhs to 27 lakhs and from 27 to 32 lakhs in three consecutive years.

Mr. Speaker: I do not understand his question. Under the agreement the Government are bound to pay something to the Imperial Bank irrespective of the cost incurred by the Bank.

Shri C. D. Deshmukh: That is right, Sir.

Mr. Speaker: If that is right, then how does the question of the increase in costs affect the Government?

Shri A. C. Guha: It may not affect the Government directly but it affects the nation because 80 per cent. of the shares are held by Indians......

Mr. Speaker: Order, order. That aspect is far remote.

SPURIOUS DRUGS

***1494. Shri Sidhva**: (a) Will the Minister of Health be pleased to state what is the approximate quantity and value of spurious drugs manufactured in India during the year 1950?

(b) What are the principal drugs which have been so manufactured?

(c) Do Government intend to modify the Act relating to the drugs with the object of making the Penal Clause more stringent?

The Minister of Health (Rajkumari Amrit Kaur): (a) As the manufacture of spurious drugs is carried on surreptitiously, the hon. Member will appreciate that it is not possible to know the quantity and value of spurious drugs manufactured in the country during any period.

(b) A statement giving the names of drugs spuriously manufactured in this country which have so far been detected by the Drugs Standard Control authorities in some of the States is laid on the Table. [*See* Appendix XII, annexure No. 3].

(c) Yes. Certain amendments to the Drugs Act, 1940 are under consideration.

Shri Sidhva: The statement annexed to the answer contains a list of 26 items, which include drugs like Penicillin, Gripe Water, Quinine tablets, etc. May I know what steps have been taken by the Government to stop the manufacture of these drugs spuriously? Has Government's attention been drawn to the fact that as recently as Friday last a factory manufacturing spurious drugs (including Gripe Water, which is given to children) was unearthed in Delhi? May I know when Government intend to bring this amendment to the Act: will it be during this session? Is it not already overdue?

Rajkumari Amrit Kaur: All the State Governments have been warned about the manufacture of spurious drugs and wherever possible raids are made. Both in Delhi and in Bombay certain gang of men—we might say—have been discovered doing this. The Drugs Act is applied as far as possible. The Act is in force in all the States and Centrally Administered Areas. We are now trying to strengthen the administrative machinery. That is all that can be done.

Shri Sidhva: Will the amendment be brought during this session?

Rajkumari Amrit Kaur: As soon as possible.

Shri Sidhva: Is Government aware of the fact that the All-India Pharmaceutical Conference passed a resolution that the Pharmaceutical Act and the Drugs Act must be amended immediately? When was that resolution passed and what is the reason for this delay?

Rajkumari Amrit Kaur: I am not aware of the resolution passed by the Pharmaceutical Conference.

Shri Deshbandhu Gupta: How many places have been discovered in Delhi during the last one year where spurious drugs were manufactured and in how many cases prosecutions have been started against the culprits?

Rajkumari Amrit Kaur: As far as Delhi is concerned, two cases of manufacture of spurious drugs have been reported to the Government of India fairly recently. A final report regarding the action that is going to be taken against the offenders is awaited from the Chief Commissioner.

Shri Sidhva: May I know whether, pending the amendment of the Act, Government will consider the amendment of the Drug Rules of 1945, with a view to checking this evil?

Mr. Speaker: The hon. Member is clearly making a suggestion.

Shri Sidhva: I am only asking whether Government is prerared to amend the rules.

Mr. Speaker: I know; he is putting it in the form of a question, but it is a suggestion for action.

Shri Sidhva: Is the Act applicable to Part B States?

Rajkumari Amrit Kaur: I do not think so, at the moment.

Shri Kamath: During the last twelve months has any action been taken in Delhi and New Delhi under the Preventive Detention Act against the manufacturers or vendors of spurious drugs?

Rajkumari Amrit Kaur: I have already said that those who have been caught are going to be tried. I do not know what action is being taken at the moment.

TECHNICAL ASSISTANCE PROGRAMME OF U.N.E.S.C.O.

***1495. Shri Sidhva:** (a) Will the Minister of Education be pleased to state what is the approximate cost involved in the Technical Assistance Programme for which an agreement exists between the U.N.E.S.C.O. and India?

(b) Has the U.N.E.S.C.O. sent any technicians to India for such a purpose?

(c) If so, for what kinds of training have they been sent?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) Financial obligations of the parties to the Agreement are given in Article III of the Agreement, a copy of which is placed on the Table of the House. [*See* Appendix XII, annexure No. 4].

(b). Not yet.

(c) The subjects for which foreign experts are to be invited are mentioned in the annex to the Agreement.

Shri Sidhva: The annexure to the Agreement says that ten research experts are to come with a view to commence work on 1st January 1951. May I know whether they have arrived?

Shri Khurshed Lal: If they had arrived I would have said so; they are due to arrive.

Shri Sidhva: That means they have not arrived yet; the answer should be correct.

Shri Khurshed Lal: They have not yet arrived.

Shri Sidhva: The team was to have commenced work on the 1st January of this year.

Shri Khurshed Lal: There are many good intentions which are delayed

Shri Sidhva: The annexure says that the expenditure will have to be borne by the Government of India, so far as items IV and V are concerned May I know what is the approximate expenditure that is likely to be incurred?

Shri Khurshed Lal: I am afraid I will have to ask notice for that question.

Shri Sidhva: May I know whether the sum of $ 22,000 includes the expenditure that will be incurred on these ten experts?

Shri Khurshed Lal: I am afraid I am not in a position to give an offhand answer.

Shri Raj Bahadur: May I know whether any priorities have been fixed with regard to the subjects in which training will be imparted?

Shri Khurshed Lal: All schemes are of equal importance.

INDIAN ADMINISTRATIVE SERVICE

***1496. Pandit M. B. Bhargava:** Will the Minister of **Home Affairs** be pleased to state:

(a) the number of vacancies still existing in the Indian Administrative Service; and

(b) the number of candidates undergoing training for the Indian Administrative Service, and the Institutions where the training is being imparted?

The Minister of Home Affairs (Shri Rajagopalachari): (a) Seventy-five in Part A States. Vacancies in Part B States cannot be estimated until the constitution of the cadres in these States is completed.

(b) Thirty-five probationers are being trained at present in the Indian Administrative Service Training School, Delhi.

Pandit M. B. Bhargava: What is the period of training and what are the subjects in which training is given?

Shri Rajagopalachari: I am sorry I have not got the information here. I would like the hon. Member to put a question as to the period of training and curriculum.

Pandit M. B. Bhargava: What is the number of officers promoted from the Provincial Service to the Indian Administrative Service and what is the number directly recruited?

Shri Rajagopalachari: I am sorry, Sir, that the question did not include the number of people who have been appointed. The original question was with reference to vacancies and the training. Therefore, I am not ready with the figures as to those who have been appointed.

Shrimati Durgabai: May I know, Sir, whether it is the intention of Government to fill up some of the vacancies in Part A States with women who have already qualified themselves, but who have not yet been absorbed in service? If the answer is in the negative, what are the reasons for it?

Shri Rajagopalachari: Every attempt will be made not only to be fair to the other sex, but also to go a little beyond the line to bring them up. But it is very difficult to entirely overlook other considerations.

Shri Karunakara Menon: May I know whether all the candidates so far selected have been provided for?

Shri Rajagopalachari: All candidates selected have been, or will soon be, provided for. There are actually 75 vacancies for which we expect there will be enough candidates in the course of the next few years. On account of the recent changes, the number of retirements in the immediate future years before us will not be so much. There will be less number of vacancies. Therefore these 75 vacancies will be filled within the next few years from the candidates that will be selected year after year. Those of them who have been selected should not be too impatient. There will be vacancies to provide for them.

Shri Shiv Charan Lal: Out of the selected candidates, are some candidates sent to Calcutta for training in the Income-tax Department?

Shri Rajagopalachari: I wish I were as well informed as the hon. Member about the grievances of particular members of the service. But all the candidates selected undergo particular training in accordance with the cadre to which they are attached.

Shri Raj Bahadur: May I know how soon the number of vacancies still existing in Part B States will be known?

Shri Rajagopalachari: In Part B States, those who are already there, that is to say, local officers recommended by the State Governments, are being interviewed for appointment to this Service. It will take a little time and when that is finished, we shall know the number of vacancies.

Ch. Ranbir Singh: Has any percentage been fixed for the selection of I.A.S. personnel from the P.C.S.?

Shri Rajagopalachari: I think I know what the hon. Member wants.

Mr. Speaker: It need not be answered.

Shri Kamath: Is there any truth in certain Press reports which appeared some time ago that the Government of a certain State declined to accept, on communal grounds, some I.A.S. officers or appointees who had been posted to that State by the Centre?

Shri Rajagopalachari: I shall enquire, Sir.

Shrimati Durgabai: May I know whether there are any alternative proposals under the consideration of the Government to appoint those women who have already qualified themselves?

Mr. Speaker: I think this question has been answered before. Let us not enter into that argument now.

Shri J. R. Kapoor: May I know what is the age of superannuation now under the new rules?

Shri Rajagopalachari: I am not so well educated as the hon. Member expects. I shall enquire and let him know if a question is put. Because there have been so many changes recently. I do not wish to venture an answer.

Seth Govind Das: The hon. Minister stated that with respect to the appointment of women there are "other considerations". May I know what those are?

Mr. Speaker: Order, order. It is a question which was thoroughly replied to some time back in this House.

COMPULSORY SAVINGS SCHEME

***1497. Pandit M. B. Bhargava:** Will the Minister of Finance be pleased to state:

(a) the total annual amount collected from Government servants by the operation of the Compulsory Savings Scheme, and the number of Government servants affected by the scheme;

(b) upto what date the scheme will be in force; and

(c) whether the Government of India propose to extend the period of this scheme further and if not, why not?

The Minister of Finance (Shri C. D. Deshmukh): (a) The information required is being collected and will be laid on the Table of the House.

(b) The Scheme will be in force until the end of 1951-52.

(c) The question has not so far been considered by Government.

Shri B. R. Bhagat: May I know whether it is proposed to extend this scheme to rural areas and if so what practical steps have been taken?

Shri C. D. Deshmukh: This relates to Central Government servants irrespective of where they serve.

EXCHANGE OF UNIVERSITY TEACHERS

***1498. Shri S. C. Samanta:** Will the Minister of Education be pleased to state:

(a) whether the scheme for the exchange of University teachers referred to the Inter-University Board has been considered by the Government of India; and

(b) if so, with what results?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) and (b). The matter concerns the Universities themselves. The subject was considered by the Inter-University Board recently and they resolved that it was not feasible to make any suitable arrangements for exchange of University Teachers in different Universities in India. A suggestion was made that the Universities may establish a system of supernumerary visiting professors.

Shri S. C. Samanta: May I know who will bear the expenses of the teachers on deputation to the various Universities when the scheme is put into operation?

Shri Khurshed Lal: As I have said it was felt that such a scheme is not feasible.

Shri S. C. Samanta: Has the University Board given any scheme?

Shri Khurshed Lal: As I have said, a suggestion was made for the exchange of supernumerary visiting professors.

Shri S. C. Samanta: May I know what are the purposes and the methods of such exchange?

Mr. Speaker: I think that it is the concern of the University Board.

Shri Khurshed Lal: Absolutely, Sir.

Shri Barrow: What were the reasons for this scheme being declared as not feasible?

Shri Khurshed Lal: Possibly, various Universities concerned thought that they could not exchange professors in that manner.

ACCOUNTS OF EMBASSIES (AUDIT)

*1499. **Shri Dwivedi:** Will the Minister of **Finance** be pleased to state:

(a) whether there are establishments attached to the Embassies for auditing their accounts; and

(b) if not, how are the accounts audited and who audits them?

The Minister of Finance (Shri C. D. Deshmukh): (a) No establishments are attached to the Embassies for auditing their accounts but there is an Audit Office in London under the Comptroller and Auditor General which audits the entire accounts of the High Commissioner for India in the United Kingdom.

(b) All accounts except those of the High Commissioner for India in the United Kingdom are transmitted to Delhi and audited by the Accountant General, Central Revenues and Accountant General, Food, Relief and Supplies.

Shri Dwivedi: May I know if the bills of the Purchase Departments of the different Embassies are properly accounted for?

Shri C. D. Deshmukh: I have every confidence that they are accounted for properly.

Shri Kesava Rao: May I know whether the Auditor and Comptroller General who has visited the Embassies recently has submitted any report regarding the auditing of the accounts of the Embassies?

Shri C. D. Deshmukh: I think there is a separate question on this later on, but the answer is that he has not submitted any audit report.

Shri Sidhva: The hon. Minister stated that audit system exists only in the India Office, London. May I know what are the arrangements for internal audit as regards other Embassies?

Shri C. D. Deshmukh: There are no arrangements for internal audit, but trained accountants are attached to almost all Embassies for the proper maintenance of their internal accounts and as I said in reply to part (b) of the question, all these accounts except those of the High Commissioner for India in London are transmitted to Delhi for audit purposes. I might add that there is a proposal now to establish a small audit office in Washington in the coming year for audit of the expenditure incurred in the United States and for the local inspection of other Embassies in America.

Shri Kamath: Is it a fact that the Comptroller and Auditor General, after his visit to the Missions and Embassies abroad, has reported to Government serious defects in the system of audit maintained by our various Embassies and Missions abroad and suggested that they should be remedied?

Shri C. D. Deshmukh: I have seen no such report, Sir.

Shri Dwivedi: Have any defects in the audit been received by Government from any Embassy?

Shri C. D. Deshmukh: Defects? We do not presume to judge the defects in the audit, Sir.

Shri A. C. Guha: The hon. Minister stated that the Comptroller General has not submitted any audit report. May I know whether he has submitted any report and if he is satisfied with the system of accounts kept in the Embassies?

Shri C. D. Deshmukh: The question was whether there was a general report on the audit of accounts in the Embassies and I replied that I have not seen any such report. It is not the purpose of the Auditor General to submit a report to Government on the state of audit in the Embassies. I believe that he has drawn attention to imperfections which he found in the maintenance of accounts by certain individual Embassies, but that was not to the Finance Ministry.

KHAJURAHO TEMPLES

*1500. **Shri Dwivedi:** Will the Minister of **Education** be pleased to state:

(a) what facilities as regards refreshment, stay and sanitation are provided by Government at the historical monuments and temples situated at Khajuraho in Chhatarpur district of Vindhya Pradesh which attract a good number of visitors including foreigners throughout the year;

(b) whether the Government of Vindhya Pradesh had submitted any proposals in this connection: and

(c) if so, what happened to them?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) At present there are no such facilities at Khajuraho.

(b) and (c). The Government of Vindhya Pradesh proposed that a Dak Bungalow at Khajuraho might be constructed during the next year but the proposal could not be accepted because of financial stringency.

Shri Dwivedi: May I know whether some complaints were made during the recent visit of the President about the

maintenance and insanitary conditions of these temples and if so, what steps are Government taking to remedy them?

Shri Khurshed Lal: I have not seen any such report. When it does come to Government, attention will be paid to it.

Shri Dwivedi: May I know if the Archaeological Department of the Government of India are going to take these temples under their care?

Shri Khurshed Lal: That matter is under consideration.

ARREARS OF INCOME-TAX

***1501. Seth Govind Das:** Will the Minister of Finance be pleased to state:

(a) the total amount of Income-tax arrears which are yet to be realised from people who have migrated to Pakistan; and

(b) what steps Government propose to take in this connection?

The Minister of Finance (Shri C. D. Deshmukh): (a) Separate figures of tax due from migrants to Pakistan are not readily available but tax due from persons who have left India and have no assets in India amounts to about Rs. 519 lakhs. A large part of it may be due from persons who have migrated to Pakistan.

(b) Usual recovery proceedings have been taken under Section 46 of the Indian Income-tax Act and certificates have been and are being sent to the Collectors in Pakistan in pursuance of sub-sections (8) to (10) of the same section.

सेठ गोविन्द दास : क्या यह बात सही है कि इस मामले में पाकिस्तान सरकार से कोई सहायता नहीं मिल रही है ?

[**Seth Govind Das:** Is it a fact that no help is forthcoming from Pakistan in this matter?]

श्री सी० डी० देशमुख : सहायता तो खास करके मिल नहीं रही है, और बहुत सी मुश्किलात हैं।

[**Shri C. D. Deshmukh:** No help is forthcoming, besides this there are many other difficulties.]

सेठ गोविन्द दास : पाकिस्तान से जो लोग भारत आये उन पर जो इनकम टैक्स लगाया गया था उसमें से कितना रुपया भारत सरकार ने वसूल कर के पाकिस्तान सरकार को भेजा है और पाकिस्तान जो लोग यहां से गये उनका कितना रुपया पाकिस्तान ने भारत सरकार को भेजा है ?

[**Seth Govind Das:** What amount of money has been remitted by the Government of India to the Government of Pakistan after realising it out of the income tax arrears due to the persons who have migrated from Pakistan to India and what amount of money has Pakistan remitted to the Government of India after realizing it from those persons who have migrated to Pakistan?]

श्री सी० डी० देशमुख : वह बहुत अल्पांश में है।

[**Shri C. D. Deshmukh:** That is in very nominal figures.]

सेठ गोविन्द दास : मैं पूछना चाहता हूं कि पाकिस्तान से जो लोग यहां आये उनका कितना रुपया हम लोगों ने भेजा और . . .

[**Seth Govind Das:** I want to know what amount of money have we sent in respect of those persons who have migrated from Pakistan and......]

मि० स्पीकर : उन्होंने कहा कि वह बहुत अल्पांश में है।

Mr. Speaker: He has stated that is in very nominal figures.]

सेठ गोविन्द दास : जो सहायता जैसा माननीय मंत्री जी ने कहा हम को पाकिस्तान सरकार से इस सम्बन्ध में नहीं मिल रही है उसके सम्बन्ध में भारत सरकार क्या कर रही है ?

[**Seth Govind Das:** As the hon. Minister has stated that in this matter we are receiving no help from Pakistan what action the Government of India is taking in that connection?]

श्री सी० डी० देशमुख : इस विषय में दोनों सरकारों में बहुत सी चर्चा हो रही है।

[**Shri C. D. Deshmukh:** This matter is being thoroughly discussed between the two Governments.]

DELIMITATION OF CONSTITUENCIES

***1502. Shri J. N. Hazarika:** (a) Will the Minister of Law be pleased to state whether Government have received representations from the public to the effect that the seats reserved for the

Scheduled Castes and the Scheduled Tribes be allotted on the district-wise population strength of each such community, and then delimit constituencies reserving seats for them in the areas where their population is most concentrated?

(b) If so, what action have Government taken in the matter?

The Minister of Works, Production and Supply (Shri Gadgil): (a) Yes. Requests have been received for the reservation of seats for Scheduled Castes and Scheduled Tribes on the basis of the concentration of population of those Castes and Tribes in the districts instead of in constituencies.

(b) These representations have been brought to the notice of the Election Commission.

Shri J. N. Hazarika: May I know whether this principle will be applicable to all the States and both the communities, or to certain States only?

Shri Gadgil: Which prineiple?

Mr. Speaker: The principle of having seats according to population.

Shri Gadgil: Sir, the question was whether representations have been received in connection with the adoption of certain principle. The answer is that certain representations have been received and they have been forwarded to the Election Commission for taking due notice.

Shri J. N. Hazarika: Is it not a fact that the Cabinet has decided that the Scheduled Castes shall be given reservation of seats in the area where they are most concentrated without having any regard to the population of the districts?

Shri Gadgil: The Government decision in this connection has been that the seats should be reserved in areas where the population of the Scheduled Castes or the Scheduled Tribes as the case may be is most concentrated. But there must be some standards for comparison, and districts are not on uniform basis whether in the point of area or population. Therefore the measure adopted has been the constituency. If in the application of this general principle any hard case is brought to the notice of the Election Commissioner I understand that he looks into it, and one such case has been considered at the instance of the hon. Member.

Shri Kesava Rao: May I know whether any representation has been received from Part C States for the reservation of seats for the Scheduled Tribes and the Scheduled Castes?

Shri Gadgil: I want notice of that question.

Pandit Kunzru: Did the hon. Minister say that the Government has issued instructions to the Chief Election Commissioner or the Election Commission that the Scheduled Castes and the Scheduled Tribes should be given representation in a particular manner?

Shri Gadgil: The general principle is that where their population is concentrated, the seats should be allotted to that area. Now, the principle enunciated by the hon. Member, or rather suggested for adoption, is that instead of taking the constituency as the unit the district should be taken as the unit. But each district differs from another and it becomes very difficult and will ultimately result in great inequity. Therefore the principle that constituency should be the basis has been accepted by the Government, and the Election Commissioner has been working on that principle. If in any particular case great hardship results, he will surely look into it.

Shri Chaliha: May I know whether any representations have been received from the President of the Scheduled Castes Federation, Assam that the distribution of seats there is very unjust and that seats have been allotted where there is least concentration of the Scheduled Caste Population?

Shri Gadgil: I require notice of that question.

Shri Kishorimohan Tripathi: May I know whether there is any constitutional difficulty in reserving single-member constituencies for the Scheduled Tribes?

Shri Gadgil: It is a matter of constitutional interpretation.

Ch. Ranbir Singh: Do Government propose to reserve seats for the Scheduled Castes and Scheduled Tribes only in single-member constituencies?

Shri Gadgil: I cannot say anything just now.

Mr. Speaker: It is entering into an argument.

Shri Kamath: Have those representations been brought to the notice of the various Parliamentary Delimitation Committees directly or through the Election Commission, as these Committees are expected to submit proposals in the first instance?

Shri Gadgil: I understand the procedure adopted was that for each State a Committee was constituted by

the hon. the Speaker. Those Committees have made their recommendations and they are being considered by the Election Commissioner.

Mr. Speaker: The point of the question is whether such representations as are received by Government or that independently go to the Election Commission are referred for opinion or advice to the various Committees.

Shri Gadgil: I will require notice for that.

Pandit Kunzru: I want a little elucidation. whether Government have the right to compel the Election Commissioner to act in a particular manner in regard to the delimitation of constituencies.

Mr. Speaker: That is a matter I believe of opinion and interpretation.

Shri Raj Bahadur: While considering the suggestion put forward in this question. may I know whether it has not been accepted as a general rule that constituencies shall be so delimited that no district boundaries are split?

Shri Gadgil: It is really a matter for the Election Commissioner.

Mr. Speaker: I think we are now entering into details.

Shri Sonavane: Is it a fact that the Election Commissioner has disturbed the allocation of seats made by the different Delimitation Committees of the various States?

Shri Gadgil: I require notice of that question.

PUBLICATIONS ISSUED BY PUBLICATIONS DIVISION

*1503. **Shri Kishorimohan Tripathi:** (a) Will the Minister of **Information and Broadcasting** be pleased to state the number of publications issued by the publications division during the years 1947 to 1950?

(b) How many of these publications are (i) in English (ii) in Hindi; and (iii) in other Indian languages?

The Minister of State for Information and Broadcasting (Shri Diwakar): (a) and (b). A statement is laid on the Table of the House. [*See* Appendix XII, annexure No. 5.]

श्री किशोरीमोहन त्रिपाठी : क्या माननीय मंत्री महोदय संख्या बता सकेंगे कि कितने पब्लिकेशन्स इन वर्षों में निकाले गये ?

[**Shri Kishorimohan Tripathi:** Will the hon. Minister be pleased to state the number of publications issued during these years?]

श्री दिवाकर संख्या कौन सी ?

[**Shri Diwakar:** Which number?]

श्री किशोरी मोहन त्रिपाठी : सन् १९४७ से १९५० के बीच में कितने पब्लिकेशन्स निकाले गये है ?

[**Shri Kishorimohan Tripathi:** How many publications have been issued during the years 1947 to 1950?]

Mr. Speaker: He has laid a statement on the Table. Does that statement not give the figures?

Shri Kishorimohan Tripathi: Sir a copy of the statement has not been given to me.

Mr. Speaker: It is for him to get the copy.

Shri A. C. Guha: May I know if this Division is self-paying?

Shri Diwakar: No, it is not.

सेठ गोविन्द दास: क्या मैं यह जान सकता हूं कि हिन्दी राजभाषा होने के बाद इस बात पर कितना ध्यान दिया जा रहा है कि अब अधिक रुपया हिन्दी पब्लिकेशन्स पर खर्च किया जाये ?

[**Seth Govind Das: May I know what attention is being paid to the fact that as Hindi has been declared the State Language so more money should be spent on Hindi publications?**]

श्री दिवाकर : वह तो ज्यादा निकल रहे हैं ।

[**Shri Diwakar:** Hindi publications are issued more.]

सेठ गोविन्द दास : कितना फर्क पड़ा है इस एक बरस के अन्दर जब से हिन्दी राज्य-भाषा घोषित हुई है ?

[**Seth Govind Das:** What difference has been caused during this period of one year since Hindi has been declared the State Language?]

श्री दिवाकर : पंफलेट्स में पचास प्रतिशत ।

[**Shri Diwakar:** Fifty per cent. as regards the pamphlets.]

Shrimati Durgabai: Is it a fact that the cost of these publications is very much higher than the publications brought about by individuals?

Shri Diwakar: I do not think so.

Prof. S. N. Mishra: May I know the number of persons employed for publication in English and Hindi separately and whether there is any difference in the scale of pay of editors in English and Hindi?

Shri Diwakar: I would like to have notice of the question.

श्री द्विवेदी : क्या इन गवर्नमेन्ट पब्लिकेशन्स की सूचियां प्रकाशित की गई हैं?

[**Shri Dwivedi:** Have the lists of these Government Publications been published?]

श्री दिवाकर: हां, जरूर।

[**Shri Diwakar:** Yes. Certainly.]

श्री किशोरीमोहन त्रिपाठी : क्या मैं माननीय मंत्री महोदय से यह जान सकता हूं कि इन पब्लिकेशन्स में से कितने ऐसे हैं जिन के एक से अधिक संस्करण निकले गये हैं?

[**Shri Kishorimohan Tripathi:** May I know the number of those publications of which more than one editions have been issued?]

श्री दिवाकर : इसके लिये नोटिस चाहिये।

[**Shri Diwakar:** I want notice of the question.]

श्री जे० आर० कपूर : यह पब्लिकेशन्स अधिकतर सरकारी छापेखानों में छापे जाते हैं या प्राइवेट छापेखानों में?

[**Shri J. R. Kapoor:** Are these publications generally printed by the Government Press or by Private Press?]

श्री दिवाकर : इस डिवीजन का जो छापाखाना है वहां जितना काम हो सकता है, उतना पूरा करके यदि दूसरे छापेखाने में भेजने की आवश्यकता होती है तो जरूर भेजा जाता है।

[**Shri Diwakar:** In the press maintained by this Division all possible work is completed and if considered essential the work is definitely sent to other presses.]

گیانی جی ایس مسافر: کیا یہ ٹھیک ہے آنریبل منسٹر کو اس بات کی اطلاع ہے کہ ہندی میں جو کتابیں چھاپی گئی ہیں وہ اتنی مشکل ہیں کہ عام لوگوں کی سمجھ میں نہیں آئیں ؟

[**Shri G. S. Musafir:** Is the hon. Minister aware of the fact that books published in Hindi are so difficult that common people are unable to understand them?]

श्री दिवाकर : मैं ठीक नहीं कह सकता

[**Shri Diwakar:** I cannot say definitely.]

Mr. Speaker: I am going to the next question.

ALL INDIA COUNCIL OF TECHNICAL EDUCATION

***1504. Shri D. S. Seth:** Will the Minister of **Education** be pleased to state:

(a) the decision taken by the All India Council of Technical Education held on 24th January, 1951 at Calcutta; and

(b) whether Government have under consideration the proposal of introducing a Bill for the registration of engineers in India and if so, when?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) The information is laid on the Table of the House. [*See* Appendix XII, annexure No. 6.]

(b) Yes. A Bill for the registration of engineers in India has been drafted and is under examination.

RADIO STATIONS

***1505. Shri A. C. Guha:** Will the Minister of **Information and Broadcasting** be pleased to state:

(a) the names of the radio-stations;

(b) the number of wireless receiving sets operating within the Zone of each of these stations;

(c) the yearly revenue thus collected within each zone; and

(d) the yearly expenditure on each of the stations?

The Minister of State for Information and Broadcasting (Shri Diwakar): (a) and (d). A statement is placed on the Table. [*See* Appendix XII, annexure No. 7.]

(b) and (c). Statistics are maintained only in respect of licences according to postal circles and not

according to Zones. Under one licence a licencee may operate more than one set at the licenced premises; it is, therefore, not possible to state with any degree of accuracy the number of wireless receiving sets operating within a particular area. The zone of a station refers only to the area from which the particular station ordinarily draws its artistic talent. For the same reason it is not possible to state the yearly revenue collected within each zone.

Shri A. C. Guha: May I know the number of licenses issued in each zone?

Shri Diwakar: It is not according to zones that the licenses are issued to licence holders. The Postal Circles do not coincide with zones.

Shri A. C. Guha: May I know the revenue collected from the periodicals? The statement has given only the expenditure on the periodicals. May I know the revenue by way of advertisements and subscriptions.

Shri Diwakar: I would like to have notice.

Shri A. C. Guha: How many of these publications are self-supporting or are yielding any profit?

Shri Diwakar: About two seem to be nearly self-supporting.

श्री जे० आर० कपूर : क्या निकट भविष्य में कुछ नये रेडियो स्टेशन्स खोलने का विचार है? यदि है तो कहां, क्यों और कब?

[**Shri J. R. Kapoor**: Is it contemplated to open new Radio Stations in the near future? If so, where, why and when?]

श्री दिवाकर: अभी कुछ निश्चित नहीं है, विचार तो हमेशा ही चलता है।

[**Shri Diwakar:** Nothing is yet decided, proposals are always there.]

Shri Deshbandhu Gupta: May I know whether it is a fact that a publication named "India Speaks" was to be brought out, and an editor is being paid for the last two years although the publication has not been brought out?

Shri Diwakar: I would like to have notice.

Shrimati Durgabai: May I know whether it is the intention of Government to equip the one K.W. metre Stations into fullfledged stations under the 8 years' Development plan?

Shri Diwakar: Yes, that is the general plan and we are working according to that plan. As and when the plan matures and money is available, one K.W. Stations would be replaced by a higher transmitter station.

Shrimati Velayudhan: May I know why the radio license fees have been increased?

Shri Diwakar: To get more revenue to meet increased expenditure.

Mr. Speaker: We will go to the next question.

TOBACCO

***1506. Shri P. Kodanda Ramiah:** Will the Minister of **Finance** be pleased to place on the Table of the House a detailed statement showing for the year 1950-51.

(a) the total Union Excise Duty on (i) tobacco intended for manufacture into *biris* or snuff; and (ii) tobacco intended for chewing, *hookah*, or *chillim;*

(b) the total quantity of released and unreleased stock, from the godowns in India, of tobacco intended for manufacture into *biris* or snuff; and

(c) the total quantity of released and unreleased stock of tobacco intended for chewing, *hookah* or *chillim*?

The Minister of Finance (Shri C. D. Deshmukh): The particulars are being collected and will be placed as soon as possible on the Table of the House.

Shri P. Kodanda Ramiah: Is it a fact that a large quantity of tobacco intended for manufacturing *biris* or snuff has not been released from the godowns in 1947-48, 1948-49 and 1949-50?

Shri C. D. Deshmukh: I want notice of this question.

Shri T. N. Singh: Will the hon. Minister kindly let us know the rate of excise duty fixed for chewing tobacco and that fixed on *biri* tobacco? Is there any difference between the two and since when have the duties been varied?

Shri C. D. Deshmukh: There are differential rates of duty on tobacco according to its intended use. I believe it is 4 annas in some cases, 12 annas in some other cases and Re. 1 for flue cured tobacco etc. I cannot give all the particulars offhand.

Dr. M. M. Das: May I know whether the Central Government give any

money to State Governments as compensation for not imposing any duty on tobacco?

Shri C. D. Deshmukh: I think, I answered the question some time ago, Sir.

Shri T. N. Singh: Will the Government state what steps have been taken following the representation made by the Banares Tobacco Manufacturers after the revised duty was imposed on chewing tobacco?

Shri C. D. Deshmukh: The matter is receiving careful attention.

Mr. Speaker: We will go to the next question.

DUTIES UPON COMPONENTS OF AUTOMOBILES

*1507. **Shri M. V. Rama Rao:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that any rebates and refunds have been allowed in respect of enhanced import duties levied upon components of automobiles intended for commercial or public utility services, in pursuance of the statement made by the Finance Minister during the Budget Session 1950; and

(b) if so, the amount of rebates and refunds allowed with particulars of importing agencies and categories of components?

The Minister of Finance (Shri C. D. Deshmukh): (a) No Sir.

(b) My predecessor's promise to grant rebate of import duty on public services vehicles was based on the expectation that there would be a surplus in the Budget for the current year after the Finance Bill had emerged from the Select Committee with changes suggested by them. The expectation has not materialised. The matter is, however, still under consideration.

Shri Sidhva: What was the report of that Committee, which was appointed for that purpose?

Shri C. D. Deshmukh: In this respect the main recommendation of the Automobile Expert Committee is that the existing Tariff classification of automobile components for purposes of assessement should be revised, and the revision should take the form of making the items more precise and also transferring from the existing group of components for which the highest quantum of protection exists carrying a rate of duty of 90 per cent. *ad valorem* to the lower rated category of 30 per cent. such of the main proprietary items whose manufacture is not feasible in India as also other components and parts whose manufacture up to prescribed standards is not likely to be feasible in the course of the next two years. This recommendation is likely to be accepted, Sir.

Shri M. V. Rama Rao: May I know what effect have these increased duties upon the production of those components on which the highest duties have been levied?

Shri C. D. Deshmukh: I must have notice of that question.

Shri T. N. Singh: Are Government aware of the fact that several interchangeable parts from tractors and motor cars are being imported as tractor parts and escaping duty?

Shri C. D. Deshmukh: This fact has not come to my notice, but I shall inquire.

Shri M. V. Rama Rao: What is the method employed by Government to find out what parts actually go into trucks and commercial vehicles and what parts go into cars?

Shri C. D. Deshmukh: When I said, I shall enquire into the matter, naturally this will be one of the factors to be investigated as to the possible interchangeability of parts.

U.N. MISSION ON TROPICAL HOUSING

*1508. **Shri Rathnaswamy:** Will the Minister of **Health** be pleased to state:

(a) whether it is a fact that the United Nations Mission of Experts on Tropical Housing visited India;

(b) if so, the places they visited in India; and

(c) the important recommendations of this Commission?

The Minister of Health (Rajkumari Amrit Kaur): (a) Yes.

(b) Delhi, Faridabad Township, Tughlakabad, Kalkaji, Sheikh Serai and Nilokheri township; Etawah and Agra; Bombay and Kalyan township; Nagpur and Sevagram; Banglore Madras and Calcutta.

(c) The Mission is expected to submit its report direct to the United Nations sometime this month. Its recommendations will be known when a copy of the report is received by Government.

Shri Rathnaswamy: May I know, Sir, if any advice or assistance was

sought for by the Government from this United Nations Mission in respect of durable and cheap houses for the low income groups and the poorer classes in general?

Rajkumari Amrit Kaur: They were asked to advise on every aspect of housing.

Short Notice Question and Answer

CALCUTTA DOCKS (STRIKE)

Shri Jnani Ram: Will the Minister of Transport be pleased to state:

(a) whether it is a fact that the workers of Calcutta Docks have gone on strike from 12th February 1951;

(b) if so, the reasons, for the strike; and

(c) the steps taken by Government to restore normal workings?

The Minister of State for Transport and Railways (Shri Santhanam): (a) It is not a fact that the workers of Calcutta Docks have gone on strike. The hon. Member is perhaps referring to the so-called strike of seamen. Seamen have not been turning up to musters for recruitment to Shipping companies from the 12th February 1951, but on that account no ships have been delayed as the crew already working on them were signed on again.

(b) The strike is reported to be against the Pre-Entry Medical Examination Scheme which was introduced in Bombay and Calcutta, which are the two ports for recruitment of seamen, 8 or 9 months ago in pursuance of the Medical Examination (Sea Farers) Convention of 1946. There has been no agitation against the scheme in Bombay but in Calcutta there have been one or two strikes of this nature earlier also.

(c) The Deputy Director General of Shipping is in Calcutta and is looking into this question.

Shri Jnani Ram: Was any strike notice given? If so, when?

Shri Santhanam: It is not a regular strike. They have not been turning up for recruitment. There is no regular service for striking. They join the ships for each trip. This time they have not turned up at the proper place for being recruited?

Shri B. R. Bhagat: May I know how the cargo and vessels have been affected by this strike?

Mr. Speaker: They have not been affected; that is what he has stated.

Shri Sidhva: The hon. Minister stated that recruitment was not affected on account of this medical inspection. May I know whether it is not a fact that the Medical Union made a representation to Government that it was a very strict examination, and after that, the Government amended certain rules and the matter went on all right? May I know whether similar amendments could not be made in Calcutta, without any impediment to recruitment?

Shri Santhanam: The position is the same in both the ports. When a seaman is disqualified by a Doctor, he is given the right to make an appeal to the Appeal Board which may order a re-examination. This was probably the amendment which satisfied the Bombay people. The same amendment is in force in Calcutta also.

Dr. M. M. Das: May I know the number of candidates that appear for recruitment daily in Calcutta?

Shri Santhanam: In every port there is a body of seamen available and according to the needs of the ships they are recruited. There are seamen's homes maintained in both the ports, Calcutta and Bombay. I cannot say how many are required at a particular time for a particular ship.

Shri A. C. Guha: Is there any recognised Union of Seamen there?

Shri Santhanam: I suppose there is. I would require notice for more particulars.

Shri A. C. Guha: About two years ago, there was a Bill passed to effect decasualisation of this seamen's service. Has that Bill been given effect to?

Shri Santhanam: Decasualisation was for dock workers. These have nothing to do with dock working. These are crew to be employed in ships.

Shri J. N. Hazarika: May I know whether these strikers are led by Communists?

Shri Santhanam: I have already stated that there is no strike.

WRITTEN ANSWERS TO QUESTIONS

SCHOLARSHIPS OFFERED BY AUSTRALIA

*1509. **Shri Rathnaswamy:** (a) Will the Minister of Education be pleased to state whether it is a fact that Australia has offered scholarships to Indian students for 1951-52 and if so, how

many and for what subjects they have been offered?

(b) What are the other countries that have offered scholarships to India for 1951-52 and the various branches of study for which these scholarships have been offered?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) Yes. 50 awards of scholarships and fellowships have been offered by the Australian Government. The list of subjects is laid on the Table of the House. [*See* Appendix XII, annexure No. 8.]

(b) A statement indicating the offers that have been received recently from other countries, is also laid on the Table of the House. [*See* Appendix XII, annexure No. 9.]

DEPORTATION OF NATIONALS OF FOREIGN COUNTRIES

*1510. **Shri M. V. Rama Rao:** Will the Minister of **Home Affairs** be pleased to state the number of cases of deportation of nationals of foreign countries from India during the year 1950?

The Minister of Home Affairs (Shri Rajagopalachari): 32.

ELECTRICAL ENGINEERING

*1512. **Giani G. S. Musafir:** (a) Will the Minister of **Education** be pleased to state the number of those who are receiving stipends of Rs. 150 per mensem from Central Government for getting practical training in Electrical Engineering at Government expense after finishing their diploma course or graduation from the Institutes in India?

(b) How many such stipends were given in the years 1949 and 1950 separately?

(c) Have Government made any arrangement with the Departments concerned or States for the absorption of recipients of such stipends after they have received the required practical training?

(d) If not, do Government propose to consider the desirability of ensuring employment of such trainees immediately after the completion of their training?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) One hundred and eight Electrical Engineering Graduates or holders of equivalent qualifications are at present receiving stipends of the value of Rs. 150 p.m.

(b) Fifty-nine stipends were awarded during the year 1949-50 and forty-nine during the year 1950-51.

(c) No.

(d) Government do not consider it necessary to make any specific arrangements for ensuring employment of trainees. The programme of general training undergone by trainees makes them better fitted for gainful employment and thus helps them to find employment.

PENICILLIN

*1511. **Shri Sivaprakasam:** Will the Minister of **Health** be pleased to state:

(a) whether there has been any improvement in the supply position of Penicillin and other essential drugs; and

(b) whether they are being sold below the controlled prices?

The Minister of Health (Rajkumari Amrit Kaur): (a) The supply position of Penicillin and other essential drugs has improved considerably as a result of the policy of liberalisation of the import of essential drugs and medicines.

(b) It is reported that in certain places Penicillin and other essential drugs are being sold below the controlled prices.

EXCISE DUTY ON *Khandsari* SUGAR

*1513. **Shri Satish Chandra:** Will the Minister of **Finance** be pleased to state:

(a) the actual earnings from excise duty on *Khandsari* Sugar during the years 1947-48, 1948-49, 1949-50 and the estimated earnings for 1950-51;

(b) the cost incurred by Government for the collection of the same in each year;

(c) whether the specific recommendation of the Indian Tariff Board regarding exemption of *Khandsari* Sugar from the duty is proposed to be implemented; and

(d) If not, why not?

The Minister of Finance (Shri C. D. Deshmukh): (a) The Central Excise Duty realised on *Khandsari* Sugar during the years 1947-48 to 1949-50 is as follows:

Year	*(Rs. 000)*
1947-48	2,00
1948-49	2,14
1949-50	2,19

The estimated revenue for 1950-51 is Rs. 2 lakhs.

(b) *Year*	*Cost of collection*
1947-48	14·4 per cent.
1948-49	7·7 per cent.
1949-50	9·3 per cent.

(c) No, Sir.

(d) The incidence of the Central Excise Duty of 8 annas a cwt. on *Khandsari* Sugar, (which is about 1·5 per cent. *ad valorem*) being negligible, the Government of India do not consider that there is any justification for a total exemption from duty.

CHILDREN'S EDUCATION

*1514. **Shri Balmiki**: Will the Minister of **Education** be pleased to state:

(a) what steps are being taken to improve children's education in India;

(b) how many children's schools have been opened in the Centrally Administered Areas during the last three years; and

(c) whether teachers have been sent abroad for training in child education?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) The Government of India are directly concerned with improvement of education in C and D part States. Compulsory Basic Education has been introduced in the rural parts of Delhi with effect from 1948-49 and in Ajmer from 1950-51. It is also proposed to distribute a sum of Rs. 5 lakhs to Part C and D States other than Delhi and Ajmer during 1951-52 for initiating Basic Education.

The Government of India were also giving block grants to Part A States from 1946-47 to 1949-50 for development of their educational programmes including Basic Education. In 1949-50 an extra sum of Rs. 13·5 lakhs was distributed among A and C States specifically for the training of teachers for Basic Schools.

(b) Exact statistics for 1947-48 are not available. But during the last two years—1948-49 and 1949-50—312 additional Primary Schools were opened.

(c) Yes, seven teachers have been sent abroad for training in child education.

SHRINES AT JYOTISAR

*1515. **Prof. S. N. Mishra**: Will the Minister of **Education** be pleased to state:

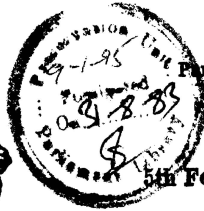
(a) whether Government propose to resuscitate the Shrines at Jyotisar, a village near Kurukshetra where the Gita is said to have originated; and

(b) whether Government have any information about its present condition?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) The Shrines at Jyotisar are not protected by the Government nor is it intended to declare them as such.

(b) Does not arise.

Friday, 16th February, 1951



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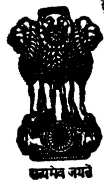

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PARLIAMENTARY DEBATES

PARLIAMENT OF INDIA

OFFICIAL REPORT

Part II—Proceedings other than Questions and Answers

"CHAMBER FUMIGATED on......"

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THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers.)
OFFICIAL REPORT

PARLIAMENT OF INDIA

Friday, 16th February, 1951

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

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(See Part I)

11-50 A.M.

BUSINESS OF THE HOUSE

Mr. Speaker: I have to intimate hon. Members that, a few days back, a request was made to me by Mr. Syamnandan Sahaya to consider the question of change of timings in the sittings of the House. I should like to have the matter discussed informally with the Members, just to see how far it is possible for us to adjust mutual conveniences and whether any change would, on the whole, be desirable and practicable. For that purpose, I shall be meeting hon. Members in Room No. 63, on Monday the 5th March, soon after the House rises, or about ten minutes past five or 5-15. Hon. Members wishing to participate in that informal meeting will kindly intimate their names to the Secretary. This will also be again repeated in the Parliamentary Bulletin in due course of time.

STATEMENT BY THE PRIME MINISTER

(i) APPOINTMENT OF SHRI MAHAVIR TYAGI AS A MINISTER OF STATE;

(ii) ALLEGATIONS OF CONFLICTS IN CABINET MADE IN CERTAIN PERIODICALS;

AND (iii) CABLE BY CERTAIN MEMBERS TO PRESIDING OFFICERS OF UNITED STATES CONGRESS *re* SUPPLY OF FOODGRAINS TO INDIA.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): I have the pleasure to inform you, Sir, and the House that one of our colleagues in this House, whose energy and activities in the House are known to all Members and to you, Sir,—Shri Mahavir Tyagi—has been appointed by the President, on my advice, as Minister of State. He will be working in the Ministry of Finance under the hon. Minister of Finance. I am sure that the inclusion of Shri Tyagi will strengthen our Government as well as the close contacts which Government has with all Members of the House.

There is another, and a different matter to which, with your permission, I should like to make some reference. I should like to express my appreciation of most of our newspapers for the fair manner in which they discharge their duties to the public. As is well known, we have the fullest freedom of the Press and it is open to any newspaper to criticise Government in any way it likes, subject only to the laws of the land. We have no official Press and no Government-owned or controlled newspapers. While expressing my appreciation of newspapers in general, may I also say that some periodicals in various parts of India fall very greatly below any standard of decency and legitimate criticism. Indeed, it has amazed me to find to what depths these periodicals can fall and how they can go on giving publicity to an amalgam of falsehood and indecency. Constant references are made to alleged conflicts and intrigues in the Cabinet and in Government and it is insinuated that some of my honoured colleagues in the Cabinet do not cooperate with others. I have ignored these writings of irresponsible journalists, but I feel that it is due to my colleagues and to this House that I should say something about this false and malicious campaign, which relates not only to the Central Government but also to some Provincial Governments. In particular, some weekly periodicals are guilty of this behaviour.

I should like to state categorically that these stories are completely false

[Shri Jawaharlal Nehru]

and the Cabinet and Government function with probably a far greater measure of friendly co-operation than any other Government in any other country. What I am especially concerned about is the degradation of some part of our public Press. This is a serious matter for those connected with the honourable and responsible profession of journalism, which has such a vitally important part to play in the life of the country, more especially a country which is governed by democratic ideals and objectives. It is for the leaders of the newspaper world in India to consider this matter with all seriousness with a view to prevent this degradation which cannot but affect the whole public life of our country.

There is yet a third, and a different matter to which I should like, Sir, to make reference. In this morning's newspapers, I saw, for the first time, a report that 43 Members of Parliament have sent a cable to the presiding officers of the United States Congress in regard to the Legislation that is pending before that Congress for supplying foodgrains to India. This message was sent without any kind of reference to any member of Government and I was considerably surprised to read it. It is open to Members of Parliament, of course, to address any message they like to any individual or any Government. But, it does appear to me a novel precedent for a number of Members to take a step in a matter concerning foreign policy and in addressing the officers of a foreign Government without consideration of the larger issues. If this practice continues, different Members of Parliament may send contradictory messages and advocate different policies by telegrams addressed to foreign countries. The House will realise how embarrassing that must be not only for Government but for this House. In this House there is perfect freedom for Members to express their views. For Members of the House to send direct messages to foreign Governments is a practice which, I submit, is to be deprecated and which can only lead to confusion and embarrassment.

PREVENTIVE DETENTION (AMENDMENT) BILL

Clause 6.—(*Substitution of new sections for sections 4 and 5*)

Prof. K. T. Shah (Bihar): I beg to move:

In clause 6, in clause (a) of the proposed section 4 of the Preventive Detention Act, 1950, after "maintenance" insert;

> "visits from relatives, friends or legal advisers, correspondence,"

The words as they are will follow so that these additional facilities will be obtained. The original clause says:

> "(a) to be detained in such place and under such conditions, including conditions as to maintenance, etc."

And with the addition of the words that I propose, it will read thus:

> "(a) to be detained in such place and under such conditions, including conditions as to maintenance, visits from relatives, friends or legal advisers, correspondence."

The words as they are, will follow.

There is another amendment in my name, to the same clause. Shall I take it up now or shall we take the amendments one by one?

Mr. Speaker: I think we had better take up the other amendment separately as it relates to a different point.

Prof. K. T. Shah: Very well, Sir.

In the amendment that I have moved, I am again on firm grounds on the authority of the discussion that took place here that the visits of legal advisers particularly are necessary if the person detained is to arrange for his representation as is provided for in the Act, that he should have facility to obtain competent professional advice. Visits from friends, I think, stand through on a somewhat different footing, yet on parallel lines, that is to say, if these visits are not, as they will not be, in private, there would always be some jail official or official connected with the place of detention present. Such visits would in no way be harmful to the interests of public peace or for whatever reasons the person may have been detained. Matters relating to the domestic affairs of the person under suspicion or detention should be allowed to be conducted through the relatives or friends who may visit him. Even if they are prisoners, I think they are allowed these facilities of visits from friends and relatives at stated intervals. Therefore, those who are under detention and under suspicion only should, in my opinion, not be denied this facility.

And lastly the amendment mentions the facility of correspondence. This correspondence too will naturally not be on the same level as an ordinary citizen's correspondence, but would be under some form of inspection or supervision or censorship. That would be inevitable, I am afraid, in such cases. Nevertheless, this facility should be provided along with those mentioned in connection with and included in, the conditions of detention which the clause itself provides.

In putting forward this amendment, I think no basic principle of this legislation is in any way contravened. These facilities that I have mentioned rank only, in my opinion, as mere humanity and are in accordance with the traditions of free democracy and they should be permitted so that no undue hardship be caused to the person so detained. His representation which is also permitted under the Act, if he intends to make one, will also be facilitated. I hope, therefore, that this amendment will be accepted.

Mr. Speaker: Amendment moved:

In clause 6, in clause (a) of the proposed section 4 of the Preventive Detention Act, 1950, after "maintenance" insert:

"visits from relatives, friends or legal advisers, correspondence,"

12 Noon

The Minister of Home Affairs (Shri Rajagopalachari): There is no difference at all of attitude, in regard to the substance of the proposal, namely, that sufficient facilities should be provided to these detenus with regard to visits from friends and relatives and for correspondence and legal help and assistance and so on. The only reason why I do not propose to accept the amendment is that it is totally unnecessary to provide for such particular matters in a general provision of this kind. The words included here are quite enough to cover these and many other things that may be necessary. The reason why maintenance has been put in is because it is not usual to give maintenance allowance in the case of prisoners. But with regard to correspondence, facility for legal help, visits and the like, even ordinary prisoners enjoy such facilities and it would be unnecessary to introduce these here. It may lead to difficulties if you provide for one thing and do not provide for another. I submit the law should allow the ordinary executive to function with regard to these matters and no statutory provision should be accepted.

Mr Speaker: Does Prof. Shah want to press his amendment?

Prof. K. T. Shah: Yes, Sir.

Mr. Speaker: The question is:

In clause 6, in clause (a) of the proposed section 4 of the Preventive Detention Act, 1950, after "maintenance" insert:

"visits from relatives, friends or legal advisers, correspondence,"

The motion was negatived.

Mr. Speaker: I find that the amendment standing in the name of Pandit Thakur Das Bhargava, the one in the name of Shri Sonavane, and another of Sardar Hukam Singh and the amendment of Shri Kamath, though not relating to the same point, they deal with correlated points. They all deal with the question of removal of the person and as to whether it should be with the consent of the Government or not. I may take all these amendments together and after a common discussion we might put them to the House, so that the discussion may not be repeated.

Pandit Thakur Das Bhargava (Punjab): I beg to move:

In clause 6, in the proviso to the proposed section 4 of the Preventive Detention Act, 1950, for "except with the consent of the Government of that other State" substitute "with the approval of the Central Government and the consent of the Government of that other State".

Prof. K. T. Shah: I beg to move:

In clause 6, after the existing proviso to clause (b) of the proposed section 4 of the Preventive Detention Act, 1950, add:

"Provided further that no such removal of any person under detention shall take place without the approval and concurrence of the President has been obtained before hand in each such case:

Provided further that a copy of each such order shall be laid on the Table of the House of the people, if sitting at the time the order is made, or as soon as possible after Parliament meets after the order has been made."

Shri Kamath (Madhya Pradesh): I beg to move:

In clause 6, to the proposed section 5 of the Preventive Detention Act, 1950, add the proviso:

"Provided that in either case the consent is obtained of the Government of the State within the limits

[Shri Kamath]

of whose territorial jurisdiction the person is arrested or detained."

Mr. Speaker: Amendment moved:

(i) In clause 6, in the proviso to the proposed section 4 of the Preventive Detention Act, 1950, for "except with the consent of the Government of that other State" substitute "with the approval of the Central Government and the consent of the Government of that other State".

(ii) In clause 6, after the existing proviso to clause (b) of the proposed section 4 of the Preventive Detention Act, 1950, add:

> "Provided further that no such removal of any person under detention shall take place without the approval and concurrence of the President has been obtained before hand in each such case:
>
> Provided further that a copy of each such order shall be laid on the Table of the House of the people, if sitting at the time the order is made, or as soon as possible after Parliament meets after the order has been made."

(iii) In clause 6, to the proposed section 5 of the Preventive Detention Act, 1950, add the proviso:

> "Provided that in either case the consent is obtained of the Government of the State within the limits of whose territorial jurisdiction the person is arrested or detained."

Pandit Thakur Das Bhargava: In the amendment I have brought forward, there is no particular principle involved. Persons are proposed to be detained when their activities affect the defence of India, the relations of India with foreign States and the security of India. In other words, these are the subjects which are included in the Union List, item 9. Item 9 contains:

> "Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subjected to such detention."

These persons must have offended against these or other subjects which are the special responsibility of the Government of India. Therefore when such persons are to be transferred, that should be done with the approval of the Government of India who in the exercise of its general powers of superintendence and control should know where the prisoner is and so without the consent of the Government of India he should not be transferred from one place to another.

In regard the other persons, those who are prisoners in respect of the particulars mentioned in the Concurrent List and Section 3 of the Preventive Detention Act, 1950, these persons may also with propriety be sent to the other States with the approval of the Government of India. With a view to allow the Government of India to have a control over the prisoners it is necessary that the approval of the Government of India is also obtained.

Prof. K. T. Shah: That part of my amendment which relates to the prior approval of the President (who stands for the Government of India) is meant for the same purpose which Pandit Thakur Das Bhargava has explained. I have however put my amendment in a negative form in the sense that no person would be removed without the approval and concurrence of the President, obtained beforehand in each such case. The President of course—as I had occasion to point out on an earlier amendment yesterday—would really mean the Home Minister of the Government of India, because the President cannot act except on the advice of his Ministers. Therefore it means really the Government of India. Inasmuch as the President is the guardian of the Constitution and this is a matter relating to Fundamental Rights provided for in the Constitution, I think it but right and proper that the head of the State should be aware and should agree that the transfer should take place. It must not merely be a matter of the convenience of the State Government which might want an undesirable element to be removed from the public life of the State and passed on to another creating a similar difficulty for the other State, which may not out of courtesy be able to refuse and may agree against its will. The Central Government being in a detached and dispassionate position would be in a better position to judge the interests of the State concerned as also the convenience of the person detained. Therefore it is provided that the intervention of the President should take place in the form of prior approval and concurrence.

The second part of my amendment requires that such order shall be laid on the table of the House, if sitting at the time the order is made, or as soon as possible after Parliament meets after the order has been made. This again is dictated by the same logic which I have been consistently following in regard to my amendments. Inasmuch as this is but a departure from the Constitution, though legally under an Act of Parliament, it is in the nature of an extraordinary matter. Let, therefore, the House take cognisance of such matters. As soon as

such an order has been made and a person has been detained, the papers relating to the case should be placed on the table of the House and if the House is not sitting these papers must be laid on the table as soon as the House reassembles. It is intended to see that the House keeps its vigilance over the exercise of these powers, in case occasion arises to bring to the notice of the Government concerned that there has been in any case an excess of authority or use of power. For this purpose I have suggested these two parts of the same amendment, which are parallel to the amendment of Pandit Bhargava. The addition is nothing more than associating the House in the exercise of such extraordinary powers.

Shri Kamath: The House will see that in the proposed section 4 of the said Act it has been explicitly made clear that so far as the removal of a person from one State to another is concerned the consent of the other State has to be obtained. The proviso to the proposed section 4 of the said Act makes it clear that no detenu can be removed from one State to another unless the consent of the other State has been obtained. If that be so, I fail to see why, even so far as arrest and detention of a person outside the territorial jurisdiction of the officer or the Government are concerned, the Government deems it unnecessary or difficult or impossible to obtain the consent of the Government of the State within whose jurisdiction the person is going to be arrested or to be detained by an officer or Government which has not the jurisdiction in that particular area. It is not at all a difficult proposal for an authority to obtain the consent of the other authority within whose jurisdiction the person is going to be arrested or detained. If for the removal it is deemed essential that the consent of the other State is obtained, for the arrest or detention of a person outside the jurisdiction of an authority the consent of the other authority in whose territory the arrest or detention is to be made should also be obtained.

If this amendment is not acceptable to the Minister as it stands, I would suggest that the clause might be so recast as to specifically state that the Government of the other State should at least be informed and subsequent approval of that Government should be obtained, if prior consent cannot be secured for this purpose.

Shri Rajagopalachari: I am sorry to say that the proposals are not acceptable. One part of the proposal is that the "President" should be introduced in this clause somehow or other. We are dealing with matters of general importance to all States and the provision is made that a person may be removed under such and such condition from one jurisdiction to another after detention is finalised. Now to introduce words which might create difficulties, ambiguities and new issues to be settled by the courts is not desirable.

There is no reason why we should introduce "the President" and other such highly constitutional terms in every place once the appropriate Government has been defined and we have the Constitution and the General Clauses Act to deal with the situation. I do not think, therefore, that we can accept the proposal made by Prof. Shah that the word "President" should be introduced in transfer orders of persons ordered to be detained.

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

Then again the question is about the consent of the various Governments concerned. I would like to draw the hon. Member's attention to this—if it is not already known to him and if it is not indeed the object of his amendment—that Government does not like any proposal to add to the asylum that people who escape arrest and detention already have. The idea is that if an order is passed against 'A', he has only to know it and he has to go out to a neighbouring State so as to delay the arrest and detention. If the proposal of Mr. Kamath is accepted, it would result in furnishing additional opportunities for escape, for evasion. I do not think therefore that that amendment is desirable. The whole question is where a man should be detained after the finalisation of the order of detention. And if he is in one place or in another place, it makes no difference. It only makes a difference in regard probably to the convenience of the detenu himself, or it arises out of operations which we are not able to control and which are being conducted from the place of detention. In either of these two cases it should be allowed to the Government to operate easily. Now every provision is made here to provide that the consent of the other State is obtained to whose jurisdiction a transfer is made. The idea of adding the Central Government has no particular point because in cases where really the Central Government is interested either of the two States concerned, or both of them, will inform the Central Government of the situation and

[Shri Rajagopalachari]

obtain their consent. There is no need to trammel the authorities too much in this matter. The State Governmen that proposes a change will obtain the consent of the Government of the other State to whom the detenu will be transferred, and in appropriate cases the matter will certainly receive the attention of the Central Government and it is not necessary to introduce a satutory entanglement in this matter. I oppose all the amendments that have been proposed in this connection.

Shri Kamath: I fail to see the logic of the stand taken by the hon. Minister, maybe because of my limited intelligence, but I would like him to clarify this further. I can very well understand his anxiety to prevent persons from obtaining asylum in some other State, but the point of my amendment is that if a person from Madras has been residing in Bombay, and the Madras Government wants to arrest him and detain him in Bombay, then what is the difficulty of the Madras Government in executing the warrant against this person with the consent or approval, at least concurrence, of the Government of Bombay? It is not as if the person is being informed. The Government of Bombay will be informed that so-and-so is hiding and has gone to that State, and that proper steps are being taken by the Madras Government to arrest him in Bombay. I do not see why this procedure of informing the Bombay Government cannot be adopted.

Shri Rajagopalachari: I quite understand the point raised. I have already answered but I will expain my position on this particular aspect of the matter. In ordinary criminal law even, if a particular State Government finds that the activities of a particular person, wherever he may be residing, affects law and order within its jurisdiction, it has the authority, even in the pettiest of cases, to send a warrant or to take a warrant out against a man living outside the State. The Government of the State where he resides is not concerned with the activities in which the other State Government is interested. Therefore, the operations that affect a particular Government and lead that Government to a decision as to detention may not at all be within the cognizance of the other Government and there may be no material to get the consent of the other Government. In fact, then it would lead to this: that no person can be acted upon successfully unless two Governments come to a common agreement in this matter. All this is foreign to the whole conception of ordinary criminal procedure. If a thief, or a burglar or a counterfeit coin-maker lives in State 'A' but State 'B' understands the situation and is affected by his activities and takes steps, State 'A' has nothing to do with it except the normal execution of warrant for which, of course, the ordinary Criminal Procedure Code will apply as we have provided for.

Shri Kamath: So far as I am aware the warrant issued by State 'B' to the other Government is executed by the officer of that Government at the request of State 'B' Government. That means that the Government of State 'A' knows that a warrant has been sent for execution. But here one State Government arrests and detains the person without any knowledge on the part of the other Government—they do not even know why he has been arrested. Their approval may not be obtained, but they must at least be informed that so-and-so is being arrested and detained.

Shri Rajagopalachari: It is already provided that the warrant will be executed in the manner of a warrant issued under the ordinary criminal procedure. That has been accepted yesterday. Beyond that I can only give reasons—I do not think I will be able to convince the hon. Member.

Mr. Deputy-Speaker: What the hon. Minister is evidently saying is that if a person who belongs to State 'A' is at large in State 'B' and if State 'B' finds his movements dangerous then without any reference to State 'A' it is open to State 'B' to arrest him and detain. On the other hand, if it is State 'A' that wants his detention, then State 'B' becomes the agent of State 'A' for his arrest.

Shri Rajagopalachari: The hon. Member's intention is to provide an Advisory Board and an additional Government to decide the issues.

Shri Kamath: Not 'decide'.

Mr. Deputy-Speaker: The other Government is only the hand of this Government. It ought not to be consulted and need not be consulted with respect to propriety etc.

Now I will put the amendments to vote.

Pandit Thakur Das Bhargava: Sir, I am not pressing my amendment. I beg leave to withdraw it.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: Then there are the amendments moved by Prof. Shah and Mr. Kamath.

The question is:

In clause 6, after the existing proviso to clause (b) of the proposed section 4 of the Preventive Detention Act, 1950, add:

"Provided further that no such removal of any person under detention shall take place without the approval and concurrence of the President has been obtained before hand in each such case:

Provided further that a copy of each such order shall be laid on the table of the House of the People, if sitting at the time the order is made or as soon as possible after Parliament meets after the order has been made."

The motion was negatived

Mr. Deputy-Speaker: The question is:

In clause 6, to the proposed section 5 of the Preventive Detention Act, 1950, add the proviso:

"Provided that in either case the consent is obtained of the Government of the State within the limits of whose territorial jurisdiction the person is arrested or detained."

The motion was negatived.

Mr. Deputy-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.—(*Amendment of Section 7 etc.*)

Prof. K. T. Shah: My amendments on this clause are: No. 35 in the Consolidated List and two others in the Supplementary List No. 2, namely, Nos. 2 and 3. They are not on the same subject. There is slight variation, but if you so desire, Sir, I would take them together. If you like I would take them separately.

Mr. Deputy-Speaker: He may take them together.

Prof. K. T. Shah: I beg to move:

In clause 7, after "the said Act" insert:

"the words 'as soon as may be, communicate to him the grounds on which the order has been made, and shall' shall be omitted and".

Therefore, the clause would read as follows.....

Shri Rajagopalachari: May I point out to the hon. Member that since his previous amendment has not been accepted and the clause has been finalised, perhaps he may not move this amendment at all now. This proposal was made perhaps on the basis of the previous amendment that the grounds shall be stated in the warrant itself. Now that that warrant clause has been finalised, perhaps he may not move this amendment.

Prof. K. T. Shah: There is a slight difference. It is true that the warrant position has been finalised, but by this amendment I am trying to see that no time lag occurs.

Mr. Deputy-Speaker: If, as the hon. Member wants, the words "as soon as may be" are omitted, it may mean that there is no time limit at all and the grounds may be communicated to the man after six weeks or ten weeks.

Shri Rajagopalachari: I agree with you, Sir, that if these words are omitted the detenu will be placed in a much worse position. The Section now reads:

"When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be after the order, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation.

If Prof. Shah's amendment is accepted, the Section will read:

"........the authority making the order shall communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation."

This means that there is no time limit for communicating the grounds. I submit that Prof. Shah is not carrying out his own intention by proposing this amendment. If he is not convinced, it may be put and negatived.

Mr. Deputy-Speaker: Far from helping him, it will make the position worse for the detenu.

Prof. Shah: I accept your word, Sir, and do not press my amendment.

Sardar B. S. Man (Punjab): I beg to move:

In clause 7, after "the said Act" insert:

"for the words 'as soon as may be' the words 'within twenty four hours of his detention' shall be substituted and"

By this amendment, I want that the grounds of detention shall be supplied to the detenu within twenty four hours of his detention. I do not want the position to be left vague. I have complete faith in the Home Minister's assurance that no innocent man will be punished and that before the police lay their hands on any person all the evidence will be carefully gone through and every fact will be carefully sifted. Before Government arrest a man, as he is an undesirable person or is likely to endanger the security of the State, they are in complete possession of evidence against him upon the admission of Government themselves. If such is the case, then I do not see why the matter should be delayed and why the detained person should not be furnished with the grounds within twenty four hours. When the whole case is already gone through, and when it has been made clear that they will not arrest any person unless they have made sure of it, I consider that if they take a longer time it will mean that they have an after-thought. They will first put him in jail and then they will leisurely go through the grounds to be given. Such a case happens today. I am not speaking hypothetically. Such a case happened in Punjab. Two detenus were first put in jail. Later on, certain manufactured grounds were given to them by the same authority. It looked like an after-thought. It is a reported High Court case. One detenu was in one district; another detenu was in another district, but they were both provided with identical grounds, comma for comma, word for word. Ostensibly, one authority sitting somewhere had invented the grounds later on in a leisurely way. If Government's bona fides are be believed, then I submit that the detenu should be provided in a very short time the grounds of his detention.

Mr. Deputy-Speaker: Amendment moved:

In clause 7, after "the said Act" insert:

"for the words 'as soon as may be' the words 'within twenty four hours of his detention' shall be substituted and".

Pandit Thakur Das Bhargava: I feel impressed by the arguments of Sardar Man and I am myself anxious that so far as the question of after-thought is concerned, no detenu should be prejudiced in that manner. But I am very sorry that I am not agreeable to this amendment. The words are "as soon as may be" and a certain sort of obligation is imposed on Government that as soon as possible they shall furnish to the detenu the grounds on which they propose to proceed against him. But at the same time, it will be most difficult in practice to give the grounds within twenty four hours. The manner in which cases will be proceeded against will be like this: as soon as an authority gets some information that a person is behaving in such a manner that he is to be prevented, *prima facie* that authority may just think that that person should be prevented, and afterwards all the evidence may be gathered against him.

Sardar B. S. Man: That is exactly my fear. First he will be put in jail and later on the evidence will be gathered and will be 'managed' against him in order to prove the case.

Pandit Thakur Das Bhargava: That is why I said at the beginning itself that I sympathise with the object of my hon. friend. All the same, we have to see how it will work in practice. Take an ordinary case. A murder has been reported. To start with, a warrant is issued against the man suspected and after his arrest or during the course of his arrest, evidence is being collected against him. If the law requires that within twenty four hours the whole case should be completed before a warrant of arrest is issued, it will be difficult in practice to proceed regularly and with success. I think that these words 'as soon as may be' are quite sufficient and I would request the hon. Minister kindly to see that these words are implemented in practice. If this is done, then it will be all right. If we allow some sort of time to the authorities to gather evidence and prepare the case and place it before the Board, that would not be wrong. I do not see how in every case there will be after-thought. There may be after-thought also, but after-thought may be of two kinds. Suppose a person is innocent and against him evidence is being collected or false evidence is being brought. Secondly there may be very good cases in which evidence may not be forthcoming to start with. Those cases will be difficult of proof if you make the words "within twenty-four hours of his detention". Those grounds are in the nature of a charge. Ordinarily fifteen days are given to the police for investigation of offences. Now you are not allowing them those fifteen days. The grounds on which

the warrant is issued are quite different from the general grounds on which the charge has to be proved before an Advisory Board.

Again, insistence on furnishing of grounds of detention within twenty-four hours will defeat the very object for which you allow six weeks for the authorities to place the case before the Board. Of course by executive instructions the authorities should be asked to see that no false evidence is produced and that no undue delay happens in furnishing the grounds of detention to the detenu. For this purpose the words "as soon as may be" are good enough. I do admit that they are vague: but in the nature of things they could not be more definite, if you want that the case should be regularly proceeded with and placed before the Advisory Board.

Shrimati Durgabai (Madras): The object of Sardar Man's and Prof. Shah's amendments is to expedite the whole matter with a view to seeing that the detenu is supplied with a copy of the grounds of his detention as early as possible. Yesterday, while replying to the debate, the hon. the Home Minister himself assured the House that Government themselves were anxious to expedite the whole procedure within ten weeks. So many things have got to be done within these ten weeks, namely, supply of grounds of detention to the detenu, reference to the Board, and also completion of the report by the Board. Therefore, without putting any time-limit at each stage, the whole process will be gone through within ten weeks. In view of this, I do not see any necessity for these amendments.

Shri A. H. S. Ali (Hyderabad): I strongly support the amendment moved by Sardar Man. Not only is the complaint referred to by him prevalent in the Punjab, but also in several provinces and States. In Hyderabad, for instance, I know of numerous cases where men are detained for months and months without being furnished with the grounds of their detention. It was only after the High Court was moved by a petition of *habeas corpus* that the grounds of detention were furnished to these detenus, and they were given a chance to show whether the grounds were right or wrong.

I think my hon. friend Pandit Thakur Das Bhargava is mixing up the question of grounds of detention with evidence. Of course the Police is given a time of fifteen days to gather evidence against an accused, but the grounds of arrest are shown to him on the very first day.

Pandit Thakur Das Bhargava: Grounds of arrest may not be the same as the grounds of detention?

Shri A. H. S. Ali: But in the case of the Preventive Detention Act the grounds of detention are exactly the same as, according to Criminal Procedure Code, the grounds of arrest. I can cite numerous instances where men were detained and grounds of detention were not furnished to them, as soon as possible, as contemplated in clause 7. It is therefore evident that this power is indiscriminately used by the officers and authorities and wide discretion is given to them in regard to furnishing of grounds of detention. I think there must be a definite time-limit for them to furnish the grounds of detention so that the detenu may be in a position to adduce evidence or to show cause why he should be set at liberty.

I, therefore, support the amendment proposed by Sardar Man.

Prof. K. T. Shah: I should like to have some enlightenment, if I may, from the hon. the Home Minister. Assuming that my amendment is not accepted, would the grounds communicated to the detenu to make a representation, be the last word so far as Government is concerned and would be the only grounds that would be urged before the Advisory Board, when that body considers the matter or would anything further of what is called evidence be adduced besides those grounds? There is some distinction between the grounds for a *prima facie* case and the full evidence. I would like to be enlightened whether those grounds communicated to him would be the only grounds and the State also would take their stand on that and the party detained would also be making his representation with reference to those grounds only and he shall not be allowed to make any further representation?

Mr. Deputy-Speaker: The hon. Minister may take note of those points. There are other Members who want to speak.

Shri Shiv Charan Lal (Uttar Pradesh): I think the amendment moved by Sardar Man is impossible of being acted upon. Even if Government or the authorities have got complete grounds before them, they will not be sending a copy of those grounds along with the warrant in search of the man. Suppose a man is arrested fifty or sixty miles in the interior and then brought to headquarters. The grounds will not accompany the

[Shri Shiv Charan Lal]

warrant. Therefore it is impossible that the grounds could be supplied within twenty-four hours of his detention. This much I agree that the grounds must be there before the warrant is issued. I do not agree with Pandit Bhargava that the man will be arrested first and the grounds will come later on. But it is altogether a different case where a murder has been committed, the man has been arrested on suspicion, the investigation goes on, and then after the investigation has finished the charge-sheet is put up against the man. That is altogether a different thing. Here the grounds are complete before the warrant has been issued for the arrest of that man. But the grounds are not to accompany the warrant everywhere. The man may be avoiding the warrant. The police may be on the search and they may take time to search him out in the mofussil, in the villages, in the jungle. And if he is arrested and brought to the centre, the authority will send in the grounds. Therefore, twentyfour hours are absolutely insufficient for this purpose.

The words in the clause are quite clear, namely, "as soon as may be". High Courts have also taken note of the expression "as soon as may be" and wherever more time has been taken by Government, the High Courts have passed remarks against Government. And now Governments are taking as little time as possible in supplying the grounds. Therefore there is no need for this amendment.

Shri Sonavane (Bombay): I think there is some confusion in the construction or reading of this clause 7. I have heard Sardar Man and another speaker advancing grounds while supporting Sardar Man's amendment, and I think they are confusing two things —one, the warrant specifying the act under which that man is to be arrested, and the other, the full grounds to be supplied to the detenu after the arrest so as to enable him to make any representation. If Sardar Man is thinking of the order giving the act under which he is to be arrested, that the act shall be specified on the warrant, then I think twenty-four hours would be quite correct.

Mr. Deputy-Speaker: He wants the grounds.

Shri Sonavane: That is the confusion made by some of the speakers.

Shri Kamath: There would have been no need for the amendment of my hon. friend Sardar Man had the authority or the Government concerned always and invariably acted in the letter and spirit of this particular section. It has been understood always that the phrase "as soon as may be" means almost immediately as, I think, the hon. Minister also said the other day. But I have known of cases myself—one or two cases—where a detenu who was arrested and detained in the month of March was not, in spite of repeated demands from him, supplied with the grounds of his detention till May, that is to say after six or eight weeks of his detention. This, I am sure, is a state of affairs which the hon. Minister will certainly like to avoid. There should be no complaints on this score from persons detained, that they are arrested and the Government or the authorities take it leisurely and take their own time to supply them with the grounds of detention.

If the amendment cannot be accepted by the Minister I would suggest that the Centre must at least issue executive instructions to the State Governments that in all cases of detention the grounds of detention must be supplied to the persons concerned within, well, two, three or four days and in any case not longer than a week. I am sure a week is the utmost that can be allowed to any authority to communicate the grounds of detention. If any person is being detained beyond that the Centre must give an order that those persons should be released forthwith. If that is accepted I am sure my friend will not press his amendment.

Shrimati Durgabai: The courts have interpreted it as reasonable time.

Shri Kamath: What is 'reasonable' time? It should be categorical.

Shri Rajagopalachari: May I briefly classify the ideas that have been put forward? One idea is that there should not be a frivolous and malicious arrest and detention. On that we are on common ground.

As regards the time table that is to be provided, in the ordinary criminal law a man can be arrested, but the police that arrest him should within twentyfour hours place him before a magistrate. Here we are not dealing with arrest, as Mr. Sonavane pointed out. We are dealing with detention and the grounds thereof, a parallel to which would be the charge-sheet rather than the warrant of arrest. The fear that a man may be detained for a long time and nothing may be done with him is to be avoided no doubt. The provision here is for that purpose. The time-table is this. There are two time-limits. One is the total time of

ten weeks. If that is exceeded, the man goes off freely and the Government is entirely outside the field. The other time-limit is that within six weeks the reference has to go to an Advisory Board. In-between is the question we have to consider now. As was rightly pointed out by an hon. Member, it cannot really be that the law should lay down that the State Government which is in possession of facts, fears and suspicions should communicate the whole lot of them to an outlying station when sending out an arrest warrant. Then the whole mechanism will be completely out of gear and the detenu will be off and will not be available. And even the evidence will not be available. The position is that the police after arresting a man has to place him within twentyfour hours before a magistrate, even if it is a warrant under the Preventive Detention Act. And then grounds should be furnished.

Pandit Thakur Das Bhargava: May I interrupt the hon. Minister for a minute? Even section 22 does not lay this obligation upon the authorities that a person who is to be detained is to be produced before a magistrate within twentyfour hours.

Shri Rajagopalachari: The warrant of arrest is simply a warrant of arrest and not an order of detention, and it would be governed by the Criminal Procedure Code.

Leaving that point aside, which is not relevant here, as regards the grounds of detention, the grounds will have to be communicated to the person proposed to be detained, so that he may have a reasonable opportunity of making a representation against the order, that is, an earliest opportunity is provided for statutorily. Then arises the question of days or hours. It would be impossible to provide the grounds in a satisfactory form within any time-limit like twentyfour hours, because it is not a warrant but the charge-sheet, so to say, against the person to be detained. All the grounds will have to be there and they cannot be exceeded. They will have to be construed by the Advisory Board, and by any other court that may come into the field. It has to be prepared with care. I submit that the words "as soon as may be" are more appropriate than any time-limit.

The next idea that was propounded was to put a limitation on the opportunity available to the executive Government to get and arrange the evidence. If the intention is to put a limit on the amount of evidence that is available, I submit that is contrary to the policy of the whole measure. We ought to have true evidence. We ought to have all available evidence and as quickly as possible. To try to make provision to prevent true evidence coming in would not be the right procedure. We have put a time-limit on the grounds being arranged and put to the Advisory Board; also on the case being finally disposed of. Therefore no time-limit should be put for gathering the grounds. Suppose we proceed with certain grounds and on a fair examination—as I propose there should be in all cases—ground A is not good, but the documents show and the report of the activities show some other ground, why should it be accepted and why should the civil law of *res judicata* be applied in dealing with criminal activities of this kind? The limitation is there that before six weeks Government take the responsibility of having to dispose of the case and let the detenu go free if they are not able to prepare their grounds. That is the extreme case that I am referring to, namely, six weeks. Ordinarily Government will be using all the time available to it, day after day, in the course of those six weeks, and they would not at all be slow to prepare the grounds. Therefore, taking the structure of the proposed measure as a whole, I submit that to place a limitation of 24 hours would be entirely out of place.

Sardar B. S. Man: As has just been pointed out there are two stages. The first will be that within six weeks, the grounds will be disclosed to the Advisory Board and the total ten weeks will be taken for disposing of the case. Is there anywhere within these two stages, any assurance, that at any stage, the detenu will be provided with the grounds?

Shri Rajagopalachari: The provision here is "as soon as may be" communicate to him the grounds on which the order has been passed and shall afford him the earliest opportunity of making a representation against the order to the Government even before it goes to the Advisory Board.

Mr. Deputy-Speaker: Both the grounds and 'execution' have to be placed before the Advisory Board. Therefore there is a condition precedent. There are other cases where the detenu might have to be arrested in another State. In that case it may not be feasible to communicate the grounds to the other side within 24 hours. The words "as soon as may be" must be regulated by general orders. The words are sufficiently indicative of the urgency of it.

Shri J. R. Kapoor (Uttar Pradesh): To me it appears that there is no analogy between the detention and the institution of arrest under the ordinary law of the land, because what happens in that case is that the man is first arrested under suspicion and then the Police has to be given an opportunity to carry on further investigation to find out whether there are reasonable grounds for proceeding with the case and thereafter completing the enquiry, they submit a *chalan* but here the authority sanctioning the order of detention has to be first satisfied, completely satisfied...(*Interruption*). Satisfaction means 'complete' satisfaction and not mere suspicion and he has to be satisfied in advance before detaining the man, at least substantial evidence there must be before the detaining authority comes to the conclusion that detention is necessary. All the substantial facts are already before the detaining authority and immediately after the order is passed, there should be no difficulty on the part of the detaining authority to communicate the grounds of detention. In the case of ordinary arrests the investigations follow. But here the investigation precedes. There is no analogy between the two. Any subsequent evidence which may come to the notice of the detaining authority may be submitted to the Advisory Board later on. What we would like is that the broad grounds of detention should be communicated within one, two or three days. Ordinarily a man is arrested within the State itself and a confidential cover could be sent to the District Magistrate who detains the person. Of course, the District Magistrate could easily be confided in with all those grounds. They would not be leaked out by the District Magistrate. If the person resides in some distant place two or three or five days may be necessary. I think the maximum time-limit of four days could well be provided here.

Shri Rajagopalachari: I was raising a point of order that in this way this would become a Committee and not a House.

Pandit Kunzru (Uttar Pradesh): I wish to bring to your notice, Sir, that hon. Members are speaking without being called upon to speak and I am denied the opportunity of speaking.

Mr. Deputy-Speaker: The hon. Member can never escape the eye of the Deputy-Speaker.

Pandit Kunzru: I am not so fortunate, Sir.

Mr. Deputy-Speaker: I only wanted to suggest that all hon. Members who ever want to speak will certainly have the opportunity to speak. Before the hon. Minister speaks in this case, I have allowed Mr. Kapoor; I will certainly allow Pandit Kunzru and many others also who may want to speak on this controversial matter. I will give another opportunity to the hon. Minister to reply.

Pandit Kunzru: I take it that I am speaking after lunch.

Mr. Deputy-Speaker: Yes.

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

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

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

Pandit Kunzru: I am grateful to you Sir, for giving me an opportunity of expressing my views on the point raised by Sardar Bhopinder Singh Man. You were good enough to say when the House adjourned for Lunch that I could not fail to catch the eye of the Chair. This may create the impression that my non-participation in the general discussion on the Bill was voluntary. The fact, however, is otherwise. I could not get an opportunity of taking part in the debate notwithstanding repeated attempts to catch the eye of the Chair.

Now, I shall deal with the question to which our attention has been directed by the amendment moved by my hon. friend Sardar Bhopinder Singh Man. What we have to decide is not whether the grounds of detention should be communicated within 24 hours or not, but whether any time limit should be fixed during which Government should communicate the grounds of detention to the person detained. I wish to read out to the House clause (5) of article 22 of the Constitution which deals with this matter. It proceeds as follows:

> "When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against that order."

Mr. Deputy-Speaker: Those very words have been used in the Act.

Pandit Kunzru: Yes, Sir. The purport of these words was recently con-

sidered by the Supreme Court in an appeal at the instance of the Bombay Government from the decision of the Bombay High Court.

> "The first part of article 22, clause (5),"

says the majority judgment of the Supreme Court,

> "gives a right to the detained person to be furnished with 'the grounds on which the order has been made' and that has to be done 'as soon as may be'. The second right given to such person is of being afforded 'the earliest opportunity of making a representation against the order'. It is obvious that the grounds for making the order as mentioned above are the grounds on which the detaining authority was satisfied that it was necessary to make the order. These grounds, therefore, must be in existence when the order is made."

My hon. friend the Home Minister, in the course of his observations said that there was no reason why the Government should be in a hurry to communicate the grounds of his detention to a detenu; it must have time to collect evidence; it may find when it considers the evidence that the detention is justified not on the grounds originally considered by Government, but on another ground. He seems to think that Government, after detaining a person, should have the right to make up its mind with regard to the grounds on which it should be stated that the man had been detained. This is absolutely contrary to the views expressed by the Supreme Court. Even otherwise, the position taken up by the hon. Home Minister should be morally inadmissible. When you detain a person, you must have in your mind the grounds on which you order his detention. You cannot first detain him and then decide what are the grounds that justify his detention. My hon. friend the Home Minister has thus not merely failed to convince us that the position taken up by him is sound, but has given us a conclusive reason for insisting that a time limit should be prescribed within which Government must communicate the grounds of detention to a detained person. The amendment of my hon. friend Sardar Bhopinder Singh Man may not be accepted; but if the principle that within some time, say, within a week, the grounds of detention should be supplied to the detenu, is accepted, then, the period can be fixed by agreement between the hon. Home Minister and the House. This is not merely a technical point. This is a point of great importance. The Supreme Court has decided that the grounds of detention after being communicated to a detenu should not be altered.

Mr. Deputy-Speaker: Cannot they be added to?

Pandit Kunzru: They cannot be added to. The Supreme Court has decided that in two cases, once in connection with a Bombay case and again in connection with an Assam case.

Mr. Deputy-Speaker: If on the ...

Pandit Kunzru: Let me make the position clear. Government cannot, after communicating the grounds of detention to a detenu, give additional grounds for his detention. They can communicate additional facts supporting the grounds that have already been communicated. They may, in support of any facts communicated by them to a detenu, supply additional evidence, providing additional proof of the soundness of their suspicion. But, the grounds cannot be added to. Supplementary facts may be given to justify the grounds already communicated. But, the addition of a new ground is totally inadmissible in accordance with the judgment of the Supreme Court.

Mr. Deputy-Speaker: At the time of making the detention order, there were certain grounds which were sufficient for asking for the detention order. Then, other grounds also are there. Later on, before communicating to the accused, is there any objection to add them?

Pandit Kunzru: So long as the grounds of detention are not communicated to the detenu, Government have time to make up their mind. They can say whatever they like, within that period. According to the Supreme Court ...

Mr. Deputy-Speaker: Will the hon. Member go further and say that whatever grounds exist before the detention order is made, they alone should be communicated to the detenu?

Pandit Kunzru: According not to my view, but according to the view of the Supreme Court, the grounds justifying the detention must be in existence when the order of detention is made. And morally speaking it is those grounds that should be communicated to the detenu.

The Minister of State for Transport and Railways (Shri Santhanam): How can there be any fresh ground after the man is in detention?

Mr. Deputy-Speaker: A fresh ground cannot arise. But some ground might not have been thought of; or it may be felt that the grounds on which the detention order was made are not sufficient, and other grounds might be sought after, before the grounds are communicated to the detenu. Is that possible, is it open to do that, under the judgment?

Pandit Kunzru: If it could be proved in a High Court or the Supreme Court that Government resorted to such a course, I have no doubt, that it would be held to be guilty of having acted in bad faith. It is in the interest of justice that Government should communicate the grounds on which the man's detention has been ordered, as soon as possible. It is not right that they should order detention of people indiscriminately, on suspicion and then try to collect materials to justify that action. There must be reasonable grounds for ordering the detention of a man before he is detained; and my hon. friend's contention that Government should be free to collect evidence in order to change the grounds of detention is hardly consistent with justice and fair play.

[MR. SPEAKER *in the Chair*]

If he will excuse me for saying so, it borders on cynicism. The House will itself see that it is necessary, both in order to prevent Government from detaining people unjustifiably and in order to comply with the observations of the Supreme Court that Government should consider itself under an obligation to communicate to the detenu the grounds on which his detention has actually been ordered, as soon as it is possible, after his arrest. What the period should be has been suggested by several speakers. I personally think that a week should be ample for the communication of the grounds of detention to the detenu.

Shri M. A. Ayyangar (Madras): I agree with my hon. friend Pandit Kunzru in that the grounds on which the detention order is made must exist before the detention order is made. No new ground ought to be sought after for the purpose of justifying the detention order. If the original grounds are not sufficient, they cannot be supplemented or substituted by other grounds after the detention order has been made. That is clear from the judgment of the Supreme Court. But there may be cases where the original grounds as they stand are sufficient to justify the detention order, or to lead to the reasonable conclusion in the mind of the district magistrate or any other authority that they are sufficient to invoke the aid of this Act. They can possibly supplement them by other facts also, so long as the original grounds stand by themselves or are enough to satisfy the magistrate. The words "as soon as may be" are intended not for the purpose of enabling the district magistrate or any other authority issuing the detention order, to find new grounds, but to enable him to communicate the grounds to the detenu. It refers to whatever time is necessary to place these grounds before the detenu or put them into his hands. The time is for the purpose of communicating the grounds to the person. In the matter of a warrant case or a cognizable offence, on grounds of suspicion or complaint, if it is thought that any man is guilty of theft or any other cognizable offence, as soon as the complaint is received, it is open to the officer in charge of a police station to arrest the person. Then evidence is gathered and the case is filed in a period of fifteen days. It is not so in the case of these cases with which we are now dealing. The law as we have enacted it makes a world of difference between these two kinds of cases. There is no analogy between them. As a matter of fact a police officer arrests with or without warrant in a cognizable offence any person against whom there is a complaint or suspicion. He need not have a *prima facie* case before arresting the person. The complaint is enough. Therefore he rushes out and effects the arrest, unless he feels that the complaint is frivolous. If he feels that the person is likely to run away, it is open to him to arrest the person and place him before a magistrate within 24 hours and file a case within fifteen days. But that is not the position with regard to these men about whom we are now dealing. The magistrate must be thoroughly satified that the material placed before him is sufficient, that there is a *prima facie* case and unless the person is detained by invoking the powers given under this Act, it is impossible to control his violent or terrorist activities, that the security of the State will be endangered. These are very serious cases where the liberty or the security of the State ought not to be played with merely for balancing it as against the liberty of the individual. It is in such extraordinary cases that the provisions of this Act would be invoked.

As was remarked by an hon. Member, it is not right that all the grounds for the detention should be communicated to the detenu along with the warrant and placed in the hands of some officer who may arrest the person so that it may become public property. Therefore, it has been deliberately stated that the grounds shall be com-

municated to the person detained. Unless he is detained, it is not incumbent on the Government to give him the grounds. The words are:

"When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order..."

As a matter of fact it is open to Government to withhold some of the grounds from the detenu, in the public interest. In the earlier stages though it might be necessary to inform the detenu of the grounds to put him on the defence and take his explanation, it might not be desirable to broadcast them or place the grounds in the hands of any officer in charge of a police station. Therefore as soon as a man is detained the grounds ought to be placed in his hands with as little delay as possible. There may be cases where a person in another State might be arrested or sought to be detained. A person belonging to a State who is sought to be detained by a particular State may at the time of his arrest be in another State. It would naturally take some time for one State to order detention in another. The obligation to show the grounds is on the State or authority ordering the detention and not on the State or authority which carries out the arrest directly or through its officers. The order may be issued by telegram but the grounds should at least be forwarded by post. By the words 'as soon as may be' I suppose it is meant that it might be necessary to send the grounds through post or otherwise through a messenger. It ought not to be taken advantage of for augmenting the grounds or introducing new grounds which did not exist at the time when the magistrate passed an order of detention. It is dangerous to do so. Merely on suspicion or in the hope of finding something later on he ought not to issue an order. A man can be detained without disclosing any grounds for a period of three months. A district magistrate for vendetta may put a man in jail and it is not obligatory on his part to issue the grounds to the accused or detenu or place the grounds along with the man's explanation before the Board. Under these circumstances it is not desirable in the interest of the safety or the liberty of the person detained to enlarge the powers. I would request the hon. Minister to consider the desirability of putting a time limit of say "within a week".

Sir, may I take the liberty of welcoming in our midst Shri Mahavir Tyagi. He has only been promoted from the left to the right.

Pandit Krishna Chandra Sharma (Uttar Pradesh): Sir, I do not find anything against law or principle of justice in this clause......

Shri Raj Bahadur (Rajasthan): Sir, on a point of order. Can the hon. Minister Shri Tyagi sit on these benches instead of on the Treasury Bench?

The Minister of State for Finance (Shri Tyagi): Is it not meant for hon. Members?

Mr. Speaker: Let us be serious over the business before the House.

Pandit Krishna Chandra Sharma: I take the case of a sessions trial. A committal order is passed on the basis of evidence and charges are framed. It is open to the sessions judge to add to the charge if the evidence is of such a serious character. *(Interruption).* Government communicate certain grounds for detention in the first instance. After ten days they find another set of grounds on the basis of information available to the authorities and the additional grounds are communicated after ten days. I do not see where injustice or abuse of power lies. It is simply a case where a man has committed or is likely to commit a crime. Government are making investigations. At a certain stage certain information is available. In the interest of the person himself firstly a disclosure of that information is made to him to explain his position. Later on another set of circumstances is available to the Government and on the basis of that information new grounds are given to him. Where does injustice or abuse of power lie, I fail to understand.

Pandit Kunzru: Unless the Government issue a new order of detention...

Mr. Speaker: Pandit Kunzru is not in order in trying to reply in that manner. He has no right of reply.

Shri Rajagopalachari: I have listened with great respect to what Pandit Kunzru has said. The matter is not however free from certain difficulties, which I shall explain. We need not go into the merits of the other amendments or other clauses just now. Reference has been made to the High Court and Supreme Court judgments. At the time these judgments were pronounced the position of the law was very different from what we are going to have when this measure is passed. I have no doubt, without any disrespect to the High Courts or the Supreme

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Court, that various matters will be examined and elucidated in course of time after this measure has been passed and there might even be a revision of previous opinions expressed *obiter dicta*.

So far as the present amendment is concerned it is definitely one that lays down that 24 hours should not be exceeded before grounds are furnished to the person proposed to be detained. That is the amendment to be considered. But after accepting........(*Interruption*).

Mr. Speaker: Order, order. He is trying to introduce a new argument which calls for a reply. Let us hear the hon. Minister.

Shri Rajagopalachari: Sir, I do not know what the hon. Member wants. I do not want to exceed my rights.

Mr. Speaker: On the other hand, Shri J. R. Kapoor wanted to exceed his rights by intervention.

Shri Rajagopalachari: I was going to say that the proposed amendment is for 24 hours. But speaker after speaker, after being convinced that 24 hours will be impracticable has been suggesting that another line of action should be considered in connection with it, namely, that some time limit should be placed for furnishing the grounds of detention. Although there is no amendment, I might perhaps explain the position as regards the suggestion.

When the present measure was not under consideration but the other Act, as it stands, was under consideration in the courts they had to discover and meet various points on both sides, on the part of the detenu, on the part of the Government and on the part of the court. They felt that as the law stood as it did—as the court is always expected to find room for justice—justice might often fail under the terms of the law as it stood. But when the law is amended the same principles of justice could easily be met without such interpretation as the courts were compelled to make upon the existing law when it was defective or when there were gaps in the law. I presume, with due respect, that the position will be different when we have provided some of the very essential requisites necessary for a fair consideration of the matter, because we have provided now ample opportunities for the consideration of the grounds by a tribunal which is all but legal. Then the question will be looked at from a different point of view and I expect a more easy way in regard to the parties concerned whether it be the executive or the parties detained.

Now I proceed to point out one great difference which has not been brought to the forefront in the previous cases that have gone up for consideration to courts. Grounds are different from facts. Grounds are different from evidence. Hon. Members who are lawyers are aware that there is a very specific rule that grounds should not go into details in cases where an appeal has to be filed. There are many strict limitations against the extension of grounds on to evidence and facts. If the word 'ground' or plural 'grounds' is to be explained we will have to consider the context, the law as it stands as a whole, that is the old Act as well as the amendments. First of all there is a particular general provision, section 3:

> "3. The Central Government or the State Government may—
>
> (a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to—
>
> (i) the defence of India, the relations of India with foreign powers, or the security of India, or
>
> (ii) the security of the State or the maintenance of public order, or
>
> (iii) the maintenance of supplies and services essential to the community, or
>
> (b) if satisfied with respect to any person who is a foreigner within the meaning of the Foreigners Act, 1946 (XXXI of 1946), that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India,
> it is necessary so to do, make an order directing that such person be detained."

3 P.M.

This is the general principle, laying down that in such-and-such cases, a person may be detained even on the basis of a fear that he is going to do such-and-such a thing. Then provisions are laid down as to how the matter should be proceeded with. Let us remember that grounds are different from facts. Here a later clause provides that the grounds should be furnished to the detenu as soon as possible and also that a satisfactory and earliest opportunity should be given to him to make his representations to the appropriate Government. Now, let me point out, according to the view that I take of the structure of this law, that nothing prevents the Government

from presenting to the detained person grounds in the strict sense of the term, but the law also lays down that he should be given an opportunity, and the earliest opportunity to enable him to make representations to the Government in answer to that. These are two different things. *(Interruption)*. The Speaker will not be angry for an interruption of this pleasant kind at this stage. But he was not quite satisfied with interruption as long as he did not choose to come here!

Going back to the points considered by the House, under the new set-up inasmuch as all detailed and satisfactory provisions have been made for the consideration of the grounds and representation against it, and so on. I presume with confidence that it will not be considered illegal by the courts if the grounds that are given to the detenu are just grounds satisfying the demand of the law, because he has under the other provision the right to demand ample opportunity, and early opportunity, to make his own representations. Then the matter will be considered. The distinction between facts and grounds will be very clearly brought out in the procedure that will be followed under the new law as it is proposed to be made.

Then the question arises: is there the bar of *res judicata* so as to say against the Government? The Government orders the detention of 'A' or 'B'. Grounds are furnished. If any fresh grounds are discovered in all honesty and sincerity and they are important and good enough for detention, I think though it is not relevant for me to make a commitment on the point now, I think the Government will be entitled to do so and pass a fresh order of detention on the new grounds. And there is nothing to prevent the Government from passing an order over and over again against the same person provided each time they follow the procedure according to the law that is now prescribed. So, there will be no difficulty whatsoever if fresh facts are found and fresh grounds are found.

The only question now is: shall we place a statutory limit on the time that is to be permitted for the grounds to be given to the person who is to be detained? I submit it is not proper, it is not wise, it is not necessary to go beyond the very detailed language as laid down in the Constitution itself. If hon. Members who were in the Constituent Assembly at the time had taken up the ground that such details should not go into the Constitution and that these are matters for laws to be enacted by Parliament, and they had enacted only general principles in the Constitution, it would have been right to do the things that are now asked to be done. But inasmuch as in the articles of the Constitution a very detailed provision has been put in this regard, it is not necessary, it is not even right to add one or two phrases here a.. . there and otherwise copy the article. The article is there in all completeness and it is quite enough. The question which now arises is that having provided means for answering these grounds, means for putting the facts before a tribunal, and having provided that the tribunal's decision shall be final and shall be binding, if there is any fresh case to be reopened Government is also free to make a fresh detention order and go again through the same process if they like. Having done all this it is not right that a statutory limit should be placed on the time to be allowed in all cases in one uniform way.

I want another point to be kept in mind by hon. Members in this debate as well for the succeeding clauses. We are making a law now which has two aspects. One aspect is that it has to be applied to the body of detenus now held in prison already. Another aspect of it is that this law is to be applied to fresh cases. With regard to the application to existing detenus, all these rules will have no great value, but with regard to fresh detenus these provisions will have value. I consider therefore that the House should accept the clause as it stands and leave it to the Government to issue such orders as they like in regard to future procedure in regard to persons to be arrested and detained on grounds to be supplied hereafter. We need not mix up and cause confusion by trying to make a uniform procedure for all cases in the world. Here is a case where the phrase "as soon as may be" has been accepted by the Constituent Assembly, and that is enough. And let the Government instruct their officers suitably. There are cases and cases. There are some cases where it would be a mistake, a dereliction of duty on the part of the authority concerned not to furnish grounds within 24 hours. There may be other cases where it would be a dereliction of duty of the authority concerned to rush with their grounds within 24 hours and put the Government in an embarrassing situation unnecessarily. Therefore, I would ask the Members to be content with the phrase as it now stands in the clause and to leave it to Government to issue suitable orders. After all, even if it is four days, even if it is one week, justice may be possible or justice may be evaded. We have to depend on the fair play of the officers concerned in these matters. Take the

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24 hours formula. It is a formula which obsesses the lawyers' minds now. That 24 hours is for where there is no question of going into the evidence at all but only to place the person arrested before the magistrate for orders as to remand and fifteen days could elapse before any charge-sheet is presented in a normal case of murder even. Therefore, I submit that in the case of apprehension of danger and grounds for such danger where the facts are so difficult to grasp in a concrete manner, no such iron rule should be provided in the statute itself.

Shri J. R. Kapoor: May I ask one thing? I was just making an inquiry of the hon. Minister whether it would serve his purpose if instead of 24 hours we have one week at the most. All that we are anxious about is that there should be some time-limit fixed. Let the Government have as much time as it considers necessary even for some rare cases, but let it be one week. That should be enough. If that satisfies the hon. Minister then an amendment to this amendment could at once be put in.

Shri Rajagopalachari: If I provide for one week, I feel, as an ordinary citizen, that in every case probably that one week will be availed of. If it is "as soon as possible", maybe everyone will be careful to see that it is done quickly. I am not in favour of putting it as one week.

Mr. Speaker: Then I will put this amendment to vote.

Prof. K. T. Shah: Sir, before you put that amendment there is my amendment which was moved earlier.

Mr. Speaker: Has that not been put?

Prof. K. T. Shah: No, Sir.

Shri M. A. Ayyangar: What happened was this. Prof. Shah's amendment suggested the omission of the words "as soon as may be......". It was pointed out to him......

Shri Rajagopalachari: Let us be accurate if we wish to begin all over again. His amendment was that the words "as soon as may be, communicate to him the grounds on which the order has been made, and shall" shall be omitted.

Shri M. A. Ayyangar: Prof. Shah did not press his amendment, for this reason that it was explained that if the words "as soon as may be" are omitted there would not be any time limit at all and any length of time may be taken.

Mr. Speaker: Was it put to the House?

Shri M. A. Ayyangar: No, Sir.

Mr. Speaker: I understand from the official record that the Deputy-Speaker had not placed the amendment before the House. So, there is no question of withdrawal. I shall now put Sardar Man's amendment to vote.

The question is:

In clause 7, after "the said Act" insert:

> "for the words 'as soon as may be' the words 'within twenty four hours of his detention' shall be substituted and".

The motion was negatived.

Shri Sonavane: I beg to move:

In clause 7, after "the said Act" insert:

> "after the words 'grounds on which the order has been made' the words 'and the date before which representation is to be made' shall be inserted and".

My object in moving my amendment is this, that six weeks have been laid down for placing the matter before the Advisory Board and ten weeks for the Advisory Board to report on the case and if no date is mentioned in the order, then it might so happen that the detenu might take a longer time than the period of six weeks within which the papers are to be placed before the Advisory Board and Government will be left with no time. This may be used by the detenu as obstructionist tactics, and consequently the time limit of ten weeks within which the Advisory Board has to submit its report will not be sufficient. Besides, there are many detenus who are ignorant and illiterate, and they would not automatically know the time within which the representation has to be made. Therefore, it would be in the interest of a detenu also if the date before which he has to make the representation is mentioned. This will ensure that the time schedule laid down in the Bill is kept up and the detenu is also helped to represent his case. I would request the hon. Minister to accept my amendment.

Mr. Speaker: Amendment moved:

In clause 7, after "the said Act" insert:

> "after the words 'grounds on which the order has been made' the words 'and the date before which representation is to be made' shall be inserted and".

Shri J. R. Kapoor: I feel inclined to support this amendment. If it is not accepted, the facility given to the detenu is likely to become infructuous in many cases. Suppose a person is detained today and the grounds are also promptly communicated to him and simultaneously with the communication of the grounds the detaining authority also promptly refers the case to the Advisory Board, and the Advisory Board, if there are not many cases before it for disposal, may within two or three days of the receipt of the papers dispose of the case referred to it. If the Advisory Board disposes of its work very quickly, it will be so much more to its credit but the Advisory Board can also simply say that the person detained can continue to be detained without having the representation of the detenu, not because the representation has been withheld by Government but because during the short intervening period of two or three days the person detained may not have sent in his representation. And if the Advisory Board passes this order, that would be the final order because there is no provision in the Bill that thereafter the Advisory Board can review its own previous order subsequently in the light of any representation that is placed before it later. Most of us have experience of how things go on in a jail. A person is detained there. The grounds of detention may be promptly sent to him by the detaining authority, but due to the negligence of the Superintendent of the jail or the jail authorities those grounds may not be communicated to the person detained for a number of days and even if they are promptly communicated, it may also happen that the representation made by the person detained may be withheld, not intentionally but by oversight or negligence of the members of the jail staff, and the representation may be lying in the jail for a number of days and even weeks, and the Government will not know that any representation has been made by the detenu and similarly the Advisory Board also will not know, with the result that the representation may not be considered at all by the Advisory Board before the final order is passed. It appears therefore necessary that there should be a time table. If a time had been fixed within which the grounds should be communicated, it would have been much better. We should at any rate fix a time limit within which representation must be made and it is only after that period, if the Advisory Board considers the whole case, it would be a proper consideration by the Advisory Board. What we are suggesting is nothing contrary to what is intended by the hon. the Home Minister. We are only furnishing the necessary details that should be incorporated in the Bill, so that the object of this legislation may be realised and nobody may suffer. Everybody should have his due rights under the scope of this Bill and therefore I would respectfully represent to the hon. the Home Minister to accept this innocent and yet necessary amendment. Nothing would be lost by accepting it, but much would be gained. It is very necessary and essential.

Shri Kamath: I am also inclined to agree with what has been said by Mr. Kapoor about the necessity for this amendment, the more so because the provision contained in section 9 of the Act says that the Government shall forward along with their own report the "representation, if any" made by the detenu. As I said in the forenoon, I myself know of one or two cases where the grounds of detention were not communicated to the detenu for as long a period as six to eight weeks. As it is, the detaining authority may—I do not say it will happen every time—take two or three weeks, or even a month, to supply the detenu with the grounds of his detention, and if the detenu, who, as pointed out by Mr. Sonavane, may be illiterate and may not know that the papers will go before an Advisory Board after six weeks, does not submit his representation within time he will be handicapped. Or it may so happen that his representation may reach the authorities on the very last day, who then on some technical ground may refuse to forward it to the Board. Therefore, in view of the provision of section 9 of the Act which does not make it mandatory on Government to forward the representation in every case, the detenu may not be in a position to make his representation unless he is told beforehand by what date he has got to submit his representation to the authorities.

I. therefore, support the amendment moved by Mr. Sonavane.

Shri M. A. Ayyangar: I am afraid this amendment is misconceived; far from helping the detenu, it may prejudice his interest.

Now, there are two parties: the Government or the officer who passes an order of detention, who will be interested in keeping him as long as possible. Now if the other amendment had been accepted by the House that within a week the grounds of detention had to be communicated to the detenu, that would have given him a long time within which to send his representation. The person who orders the detention is interested in putting off

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giving the ground as long as possible. The person who is detained is interested in getting the order as early as possible and sending his explanation as quickly as possible. So, once the explanation is sent both the original order and the explanation have to be under the law, forwarded to the Board. The Board is given ten weeks for the purpose of passing the order: nothing prevents the Board from passing the order earlier. Having regard to those facts, is it at all in the interest of the detenu to force Government to fix a particular day within which he must give his explanation?

Normally Government will wait until the expiry of six weeks. On the last date it will send its grounds and also the explanation. The words 'if any' is used to cover a particular category of persons. There are certain persons who, on grounds of principle, may rafuse to send an explanation. As a matter of fact I know that a number of Congress detenus refused to send any explanation. You cannot compel persons, who on account of ideological differences, may refuse to submit any explanation. They may admit that they are a danger to society and it is their creed to go against the present form of Government. In these circumstances 'if any' ought not to be misunderstood to mean that Government will make a show of sending the grounds and will forward them the next day. As it is, Government will be interested in putting it off till the last week, because they may not be sure that the Advisory Board will accept their grounds.

There may again be some cases in which the detenu himself may like to have some time and you are binding him to a particular date. Far from helping the detenu it is against his interest. Under these circumstances, it is good to keep it nebulous, giving the entire option to the detenu to choose the time when he will send an explanation. Government will be committing a wrong if it does not wait till the last day.

I am not, therefore, in favour of this amendment.

Shri Kamath: May I point out to my hon. friend Mr. Ayyangar...

Mr. Speaker: The hon. Member is trying to make a second speech, to which he is not entitled.

Shri Sonavane: I have got a right of reply, Sir.

Mr. Speaker: The hon. Member will refer to the Rules.

Shri Rajagopalachari: A proposal was made to put a date in the communication in order that Government may not be put into difficulties by the detenu abstaining from sending his representation. In support of the amendment the other aspects of the matter have also been discussed and it has been pointed out, with much reason, that the detenu himself would be in difficulty if no date were fixed. Mr. Kamath has also pointed out once again that a date would be necessary in order that the detenu may have a full opportunity to make out his case. I am sorry the conclusion of the Deputy-Speaker, when he spoke from the floor of the House, is wrong. He very rightly pointed out many aspects of the matter, but when he concluded finally that Government would be compelled to wait for six weeks to expire, because otherwise the detenu may not be said to have had his full opportunity, he was wrong. That would limit the further procedure to four weeks, which I do not like at all on behalf of Government. I think, therefore, that the best way of meeting the situation, both from the point of view of Government and from the point of view of the detenus, about which hon. Members are so rightly and so particularly careful, would be this. Let us keep the clause as it is, because I do not want to substitute a date. There must be the fullest opportunity afforded to the detenu. But it is also necessary to avoid manoeuvring on either side. So I suggest this amendment. The sentence would read like this:

> "Shall as soon as may be, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government, fixing a date therefor."

It would provide a definite date for the detenu to make out his case. I may point out to hon. Members—who may perhaps feel suspicious, because I am making the proposal on behalf of Government—that Section 10 reads:

> "The Advisory Board shall, after considering the materials placed before it and, if necessary, after calling for such further information from the Government or the person concerned..."

So that if no representation is received, they will have the right to ask the detenu to furnish a representation, if he chooses to. Ample provision remains in clause 10 to make up for any failure on anybody's part. I shall have no objection to fixing a date therefor. If the hon. Member

who has moved the amendment and the hon. Members who have supported it and the hon. Members who have supported it on behalf of the detenu all agree, I shall have no objection now to make this change.

Shri J. R. Kapoor: Will the hon. Minister kindly re-read his last amendment?

Shri Rajagopalachari: Section 7, if amended in this manner, will stand thus:

> "*Grounds of order of detention to be disclosed to persons affected by the order.*—(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government, *fixing a date* therefor."

Prof. K. T. Shah *rose*—

Shri Kamath *rose*—

Mr. Speaker: Practically a new thing is under discussion.

Shri Rajagopalachari: If it is not agreeed to by Mr. Kamath and Prof. Shah I do not propose it.

The Minister of Works, Production and Supply (Shri Gadgil): Mr. Sonavane agrees.

Shri Kamath: May I submit with reference to the amendment proposed by the hon. Minister that there is one difficulty? It is this. Under the new provision the appropriate Government or authority will fix the date for submission of the representation by the detenu. It is conceivable in a certain set of circumstances that the authority may fix a date much earlier than the period of six weeks from the date of the order.

Shri Rajagopalachari: They would fix too short a period—is that the idea? I anticipated that. That is why I said if there is any unreasonable date fixed it will be open for the Advisory Board to call for further information from the person concerned.

Shri Hathi (Saurashtra): The amendment suggested by the hon. the Home Minister is, I think, appropriate. But I would also submit a further suggestion. If we look at the original Act there were only some cases which had to be referred to the Advisory Boards. The representation had to be made to Government, because in certain cases they might not be sent to Advisory Boards. But now all the cases have to be sent to the Advisory Boards. So if we say in clause 7 that the representation may be made directly to the Advisory Board, the question of the Government communicating the same to the Advisory Board might be done away with and the detenu can directly send his representation to the Advisory Board. In the original Act the representation had not to be considered by the Advisory Board in all cases. There were only some cases—two kinds of cases—which had to be referred to the Advisory Boards and other cases had to be considered by the Government. So the representation had to be made to Government. But now, when all the cases have to be referred to the Advisory Boards, I think it would be better if the detenus are entitled or given the right to represent directly to the Advisory Board. Then the whole question could be done away with and no question of delay etc. would arise.

Shri Rajagopalachari: I am sorry I do not agree.

Pandit Thakur Das Bhargava: In reading section 7 the idea seems to be that the Government is enjoined upon to have the grounds communicated to the detenu as soon as possible. It is in the interest of the detenu himself that this rule has been made that as soon as possible the grounds may be communicated to him and he may be afforded the earliest opportunity of making a representation. I understand that whatever the period is—whether it is six or four weeks as is decided by the House—this is the ultimate period during which he is able to make a representation to the Advisory Board. I know the words are in the amended section 'to the appropriate authority'. My humble submission is that the question of representation is extremely important and no limit should be placed as regards the period of representation so far as the detenu is concerned. Suppose the Government fixes a week and during this period he is not prepared he will lose that right. I do not want him to lose that right. It is quite right that the earliest possible opportunity should be afforded to him, but it is equally right that you give him as much opportunity as possible. I am also making other suggestions whereby the detenu may be able to communicate to the Advisory Board who may decide his fate. My submission is that the detenu should be afforded as much an opportunity as

[Pandit Thakur Das Bhargava]

possible. By fixing a date you will be limiting that period. I do not want that it should be so limited. It may happen that a detenu for fifteen days does not wish to make a representation at all, but subsequently he wishes to do so. If you fix a date, then no opportunity will be left to him to have a *locus poenitentiae* in the matter and make a representation. Therefore the provision should be left as it is. If Mr. Jaspat Roy Kapoor is rather apprehensive that in the jail he may not be asked and so on, you may make a rule that the jail authorities shall certify that the grounds have been communicated to him, etc. I can understand all that. But I must insist that this period......

Shri J. R. Kapoor: One who has not been in jail cannot understand.

Pandit Thakur Das Bhargava: I have been many times in jail and I have been looking after the interests of thousands of persons who have been convincted of much more serious crimes than the hon. Member who has made the interruption.

Shri J. R. Kapoor: I think it was a helpful interruption!

Pandit Thakur Das Bhargava: I must submit that so far as the interests of the detenu are concerned a certain period is allowed which should not be limited. If the period is not limited I am agreeable.

Mr. Speaker: I think we should not carry on this discussion any further. The hon. Minister has stated that he was prepared to put in the provision only if there is agreement. It is clear that there is no such agreement.

Shri J. R. Kapoor: Mr. Sonavane agrees.

Mr. Speaker: It is not agreed to. It is very clear.

Shri Rajagopalachari: I shall sum up the position and then it may be disposed of. It is in terms of what Pandit Thakur Das Bhargava last said. The clause has been drafted as it is, so that the detenu's rights may not be restricted in any manner. But inasmuch as it was thought on behalf of the detenus that it may help them I suggested this phrase, "fixing a date therefor". If there is no agreement I submit on the whole it is best to leave it as it is. There are a number of rules and detailed procedure that will have to be framed—a sort of small code will have to be made—for the carrying out of this measure. That should be left to the executive. We try to provide everything statutorily and we create difficulties when we propose to create advantages. Therefore on behalf of the detenus and on behalf of Government I ask that this may be left as it is.

Shri Sonavane: I am in favour of the amended clause. Why I am insisting upon fixing a date is this: In many a case there was no date fixed in the communication sent to the detenu. The detenu was not conversant with the whole Act......

Mr. Speaker: I think he is going into the arguments further. The only thing I have to do is to put his amendment to the vote of the House.

The question is:

In clause 7, after "the said Act" insert:

"after the words 'grounds on which the order has been made' the words 'and the date before which representation is to be made' shall be inserted and".

The motion was negatived.

Prof. K. T. Shah: I beg to move:

(i) Re-number clause 7 as sub-clause (1) of that clause and add sub-clause (2):

"(2) In sub-section (2) of the said Act, for the words 'it considers to be against the public interest to disclose' the following shall be substituted, namely:—

'relate to the defence or security of the Union, or any part thereof, but all other facts which bear upon the case which are calculated to enable the person detained under this Act to make an effective representation under sub-section (1) of this section".

The amended sub-section would read thus:

"Nothing in sub-section (1) shall require the authority to disclose facts which relate to the defence or security of the Union or any part thereof, but all other facts which bear upon the case which are calculated to enable the person detained under this Act to make an effective representation under sub-section (1) of this section."

Here after the word 'section' certain words are omitted. If you will permit me "shall be communicated" may be added. This is understood.

I also beg to move:

(ii) Re-number clause 7 as sub-clause (1) of that clause and add sub-clause (2):

"(2) After sub-section (2) of section 7 of the said Act, the following sub-section shall be inserted, namely:—

'(3) As soon as any order of detention is made against any person under this Act, all the facts and grounds for making such an order shall be placed before the Minister of Home Affairs of the Government of India.'"

Mr. Speaker: I propose to take Pandit Thakur Das Bhargava's amendment along with this. I am just informing the hon. Member so that he may make his remarks in respect of that also.

Prof. K. T. Shah: In commending these amendments to the acceptance of the House, I am reminded of the ancient mythological story of King Midas who turned everything he touched into gold. In my case it seems to be the other way and whenever I touch something it becomes an anathema and a devil quoting the scripture, so that even the Holy Writ put forward by the Home Minister himself becomes a heresay when put forward by me as an amendment. For example the assurance he himself gave that the Act will not be applied to political opponents when converted into the form of an amendment by me appeared so heretical that even the Holy Inquisition could not have dealt with it properly. Not however deterred by this and knowing my fate almost in advance, I nevertheless venture to submit this, which I consider to be perfectly in spirit with the amendments I am trying to put forward so as to make this extraordinary legislation as harmless as possible and so as also to guarantee or secure the just rights and fair treatment of the detenu as far as possible.

The first proposal, therefore, is that if you consider that there are grounds which relate to the defence of the country or the security of the country and which are so delicate that their communication to the party concerned may endanger the very object for which he has been detained, I realize that they may not be communicated and therefore I offer this evidence of my earnest desire to co-operate by accepting that those grounds need not be communicated, but all other facts must be communicated to him which will enable him to make a proper and effective representation. I am afraid no one in this House can equal the hon. Home Minister in subtlety and therefore the distinction which he has been good enough to draw and explain to us, at least to me as a layman has given a new light, namely distinction between facts, grounds and evidence. In this case, however, I have chosen to keep myself only to facts which can be proved or disproved and as such I suggest that barring the facts which might relate to the national security or the defence of the Union, barring those which need not be communicated or other grounds which are 'facts' which bear upon the case and which may enable the party detained to make an effective representation must be communicated to him. If he is going to make a rejoinder, if he is going to make a proper representation in his own evidence, if the Advisory Board is to have his view also, all the facts on which Government have founded their order of detention, then I think, it is but fair that with the exception mentioned, all facts should be communicated. Without that, he would not be in a position, I submit, to make a really effective representation. The more so, as I find that another procedure provided hereafter in the subsequent clause is also there by which there would not be before the Advisory Board any real trial in a proper judicial sense, that is to say, unless I am very much mistaken in reading the terms of this Bill, the Advisory Board will consider by itself and the parties will not be heard. Their advisers will not have any chance of meeting the Board excepting the facts which may be alleged against them and the grounds put forward. I take it that would of course apply both to Government and to the party concerned. But the Advisory Board has the right to demand that it must have the further facts and the information must be supplied. In the case of the detenu, however, I do not see that the Advisory Board is given similar powers to enquire from him also whether he has any answer to certain allegations which are in the knowledge of the Board, but which are not known to him. That would be exercise of judicial discretion and they may be allowed to enquire. But, that is a point not arising just now. As things stand there, I think that it is important, essential in my opinion, for the sake of justice and fair play that at least all the facts, barring those which are exceptional, be communicated to the party concerned.

By the second amendment I am trying in my own way to get round the first exception; that is to say, even if the grounds, such as there may be, that concern the defence of the country or the security of the country, are

[Prof. K. T. Shah]

not communicated to the detenu, they should at least be placed before the Home Minister of the Government of India. That is to say, he being, after all, responsible ultimately for the proper administration of this extraordinary legislation, he being in a way the guardian under the Constitution of the civil liberties, on the administrative side at any rate, it is but right and proper that he should be informed of every item that relates to the case, whether it concerns the defence of the country or security or foreign relations or any other item, and whether these are communicable and communicated to the party concerned or not. As a member of the Government of India, he is charged with the responsibility along with his colleagues and jointly with his colleagues, of maintaining not only peace and order within the country, but also the national security and national defence, and therefore, it is but right for him to see how in every part of the country, not only by the Central Government, but by every other State, this extraordinary legislation is operated, so that, without hurting or unduly hurting the liberty of the citizen, the security of the State is also maintained, and also good relations with foreign countries. On this ground, therefore, I put forward these two suggestions by way of amendments, and I hope they will be accepted.

Mr. Speaker: Amendment moved:

(i) Re-number clause 7 as sub-clause (1) of that clause and add sub-clause (2):

"(2) In sub-section (2) of the said Act, for the words 'it considers to be against the public interest to disclose' the following shall be substituted, namely:—

'relate to the defence or security of the Union, or any part thereof, but all other facts which bear upon the case which are calculated to enable the person detained under this Act to make an effective representation under sub-section (1) of this section.' "

(ii) Re-number clause 7 as sub-clause (1) of that clause and add sub-clause (2):

"(2) After sub-section (2) of section 7 of the said Act, the following sub-section shall be inserted, namely:—

'(3) As soon as any order of detention is made against any person under this Act, all the facts and grounds for making such an order shall be placed before the Minister of Home Affairs of the Government of India.' "

Shrimati Durgabai: May I make a small submission, Sir? I think the point made out just now by my hon. friend Prof. K. T. Shah will be met by clause 10 which enables the Advisory Board to call for all such materials not only from the appropriate Government, but also from the person concerned. Therefore, nothing bars the right of the Advisory Board to call for such material.

Pandit Thakur Das Bhargava: I beg to move:

Re-number clause 7 as sub-clause (1) of that clause and add sub-clause (2):

"(2) In sub-section (2) of section 7 of the said Act, the following shall be added at the end, namely:—

'unless they relate to the grounds of detention or antecedents of the detainee or are likely to affect the opinion of the Advisory Board in the matter of sufficiency of cause for the detention of the person concerned.' "

As I read sub-sections (1) and (2) of section 7, I understand that sub-section (2) only relates to one contingency. That is, whatever is contained in sub-section (1) will not require the authority to disclose the facts which it considers to be against the public interest to disclose. That is to say, the provisions that the grounds are to be communicated, and representation has to be made, these two things will not force the Government to disclose the facts which it considers to be against the public interest to disclose. I do not think that the Advisory Board which will really decide the fate of these detenus will be so useless or will be so powerless as not to be able to ask the Government to disclose all the facts which relate to the grounds of detention. Reference has just been made by Shrimati Durgabai to section 10 which says:

"The Advisory Board shall, after considering the materials placed before it and, if necessary, after calling for such further information from the Central Government or the State Government or from the person concerned, as it may deem necessary, submit its report......etc."

From what is contained in this section, it appears that the Advisory

Board will be able to call for further information from the Central Government or from the person concerned. So far as the power of the person concerned is in question, it is clear that section 7(2) withholds from him certain facts which in the public interest are not disclosed to him. He will not be able to make any communication on the point to the Advisory Board. It remains only for them to call upon the Government to furnish further information under section 10. My submission is, so far as this aspect of the case is concerned, the Advisory Board should be fully armed with power to get all the possible information which it possibly can either from the Government or from the detainee or from any other source. As has just been explained by my hon. friend Prof. K. T. Shah, he thinks and I think too......

Mr. Speaker: I feel a doubt about this. I may put it to the hon. Member and get the matter clarified. Sub-section (2) of section 7 seems to be restricted to what is provided for in sub-section (1) of section 7, that is restricting to the grounds that have to be disclosed to the detenu. Does it necessarily apply to the provisions of section 10?

Shri Rajagopalachari: Not at all.

Pandit Thakur Das Bhargava: These words which you have been pleased to read into the section "to the detenu" are not there.

Mr. Speaker: The point that I was making is this. Sub-section (1) of section 7 requires that the detention order shall communicate the grounds to the detenu. The procedure with reference to the detenu is given here. Section 10 gives an entirely different procedure, subsequent to the grounds being communicated to the detenu and representation from the detenu. Therefore, the doubt arises in my mind as to whether sub-section (2) of section 7 will be applicable to the provisions of section 10.

Pandit Thakur Das Bhargava: My own reading is that it will not apply to section 10. Under section 10, there is no prohibition so far as the Advisory Board is concerned. They will be fully competent to consider all things which are placed before them. The only question will be whether the Advisory Board by itself will be able to get information from the Government. This is the only point so far as section 10 is concerned. We shall come to that subsequently.

What I was submitting was with reference to section 7, I really want to amend sub-section (2). The amendment says that such things as relate to the grounds of detention or the antecedents of the detainee, or are likely to affect the opinion of the Advisory Board in the matter of sufficiency of cause for the detention of the person concerned should also be disclosed to the detainee. I know that under the Public Safety Act some persons were arrested and detained by the authorities. Some of them, though they belonged to the R.S.S., were such people as were imprisoned twice or thrice under the Congress movement. In respect of two of them, I submitted to Sardar Patel that they would have stood between Godse and Mahatma Gandhi and would have given their lives to protect the life of Mahatmaji. But, all the same, their antecedents were not known to the authorities. Those persons had been sentenced to imprisonment under the Congress movement. All these facts were withheld from the authorities. Similarly, I want that the antecedents of the detainees ought to be given to the Advisory Board. It may be that that may go against the detenu also; or it may be favourable to the detenu. I do not want that, if these facts would go against the detenu, they should be withheld from the Advisory Board. The Advisory Board should be fully informed about the antecedents of the detenu.

So far as 'public interest' is concerned. it is a very elusive term. We know what public interest is. It is just according to the proverbial length of the foot of the Chancellor of the Exchequer. Anything may be public interest. It is a very elusive and dangerous term. I am very much afraid that this goes to the very root of the grounds of detention. Suppose a person is not told what the grounds of detention are. how will he be able to defend himself. I know. in 1944 there was a report against myself that I went to a jungle, collected many people and asked them to cut telegraph wires, etc., and take away the rails. That was absolutely wrong; I was going to another station to a friend of mine, with my uncle. The Deputy Commissioner told my uncle the other day that this was the report against me. My uncle told him that that was wrong, and that he had gone with me. If the Deputy Commissioner had not told my uncle, how could I possibly defend myself?

My humble submission, therefore, is that so far as the grounds of detention are concerned, the very fact that the person has been detained gives him the right, the absolute right to know everything about allegations against himself. I think the best public interests require that he should

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not be detained if he ought not to be detained and he should be detained for a good length of time if he ought to be detained and this can be best secured if he knows allegation against himself and makes representations in reference to those allegations.

As regards the Advisory Boards, they should know and have a right to know all the grounds and all the antecedents of the person and they should function quite dispassionately and fearlessly. If the State has any information which goes against the State, against the sufficiency of the case, even that should be given to the Board. How else can we expect the Boards to function properly and how else would the ends of justice be met?

4 P.M.

The hon. the Home Minister did draw a distinction between grounds and the facts. I quite see the difference propounded by him. It was said that the entire evidence cannot be disclosed to the detenu. But what is the ground after all? The grounds are an epitome of all the evidence, of all the facts. After hearing the Deputy-Speaker and Pandit Kunzru I find I was wrong in what I argued about furnishing grounds within twenty-four hours. I now find that the grounds are a thing by themselves, that they cannot be added to. But these grounds of detention though they are practically different from the facts, they are the results of these very facts. If all the grounds are not given to the person detained, how is he going to make his representation? Is he to do so on any sketchy grounds given to him? And if even from these grounds something can be kept back, how will the Advisory Board act and how will justice be done to the man? The ends of justice will not be met unless the hon. the Home Minister accepts my amendment.

Mr. Speaker: Amendment moved:

Re-number clause 7 as sub-clause (1) of that clause and add sub-clause (2):

"(2) In sub-section (2) of section 7 of the said Act, the following shall be added at the end, namely:—

'unless they relate to the grounds of detention or antecedents of the detainee or are likely to affect the opinion of the Advisory Board in the matter of sufficiency of cause for the detention of the person concerned'."

Shri Rajagopalachari: Sir, if I may say so, you were perfectly right when you explained to Pandit Bhargava—perhaps without effect—that the argument about sub-section (2) in section 7 should be confined to the applicability of sub-section (2) to sub-section (1) of section 7 and therefore it has no reference to section 10. In sub-section (1) we have stated that the authority making the order shall communicate to the detenu the grounds for the detention and in sub-section (2) we state:

"Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose."

It means disclosing to the detenu and not to anybody else. Section 10 has no such clause, as far as I can see and the Advisory Boards will not be governed by sub-section (2) of section 7.

After that has been cleared, let us see if this proviso should be nullified by the proviso now proposed, that the facts should not be disclosed, "unless they relate to the grounds of detention or antecedents of the detainee". Unless they relate to the grounds of detention there will be no question about them at all. And as regards antecedents of the detenu, really there is no bar and there is no need for a provision to be made.

The question of "public interest" is a thing to be decided. Even if we accept this proviso "unless they relate to the grounds of detention etc." who is to decide the question? Prof. Shah's suggestion is that unless they relate to the defence and security of the Union, they shall be communicated. Even if that is accepted, who is to decide? Whether certain things it is against the public interest to disclose can only be decided by the person or authority to whom it has been disclosed. Between the detainee and the Government, the only party that knows the considerations that are required to be met in that connection is the Government. Therefore, it is only the Government or the authority who can decide that it is against the public interest to disclose a thing or that it is not against the public interest to do so, or whether it relates to the defence and security of India or not. Therefore all these provisos proposed have necessarily to be considered only by the Government. Therefore, there

is no advance made in making these provisos. They would be only nullifications and not precautionary provisos at all.

Let us take section 124 of the Evidence Act—our old friend—and as only lawyers have raised these points, they will easily understand it. It says:

> "No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure."

Even in this old Act, it is not left to the accused person to argue about it, because without a disclosure no argument can be presented.

Therefore, it is not possible for me to accept the amendments.

Shri J. R. Kapoor: For once at least, I feel I must be in the company of Prof. Shah, though I would certainly like that I should not be known by this little company that I am going to keep with him. For once, I find my hon. friend Prof. Shah to be very eminently reasonable, and even more reasonable than my hon. friend Pandit Thakur Das Bhargava. I say this because Pandit Thakur Das Bhargava's amendment is a virtual negation of sub-section (2) of section 7, as has been rightly pointed out by the hon. the Home Minister. If that amendment is accepted, then all the facts and everything relating to the grounds of the detention must necessarily be disclosed to the detenu. There will hardly be anything left which should not be conveyed to the person detained. The small implication of Prof. Shah's amendment is that it will be open to the executive not to disclose facts which they consider to be affecting the defence or security of the Union or any part thereof, but barring these, all other facts must be disclosed to the detenu. I see no reason why, barring these facts which affect the security or defence of the country or any parts thereof, the other facts should not be conveyed to the person detained. Such facts can either relate to the conduct of the person detained or to certain other things. In the former case, there is no harm in informing the person facts about his own conduct.

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

There is no harm in doing that. The person is only told that as a result of such and such past conduct of his, the Government thinks that he should be detained and it is for him to try to persuade the Advisory Board that that conclusion of the Government is wrong. The other facts may relate to circumstances which are not within the knowledge of the person detained and if they are not such as affect the defence or security of the country, you should communicate them to the person detained. Otherwise, how is he to make his representation? On the one hand, you give him the right to make a representation and on the other, you deny him the information necessary for enabling him to do so. It has been pointed out by the hon. the Home Minister that sub-section (2) of section 7 has no bearing on section 10 of the Act. That is perfectly true. Under section 10 it is open to the Advisory Board to call for any further information from the Government and also from the person detained. Supposing the Advisory Board calls for further information regarding the facts which originally the executive did not convey to the person detained. Admitting for argument's sake that the executive would not be so unreasonable as not to convey those things to the Advisory Board, having the fullest confidence in the Advisory Board and feeling secure that those facts communicated to it will be safe and secret with the Board, Government may place all their cards before the Advisory Board. These facts will be before the Advisory Board and not before the person detained. It may be argued—I wonder if it will be—but to meet it if it is advanced at all that the Board when it comes into possession of those confidential facts may interrogate the person detained on them. I am sure members of the Advisory Board, responsible persons as they are, would not disclose to the person detained those facts which are now given to them by the Government but which were not given originally to the person detained. It would be open to the Board to draw such inferences as they like on the facts placed before it by the Government but it will not be open to them to disclose those facts to the person detained and give him an opportunity to rebut those facts. Therefore this provision in section 10 relating to the Advisory Board calling for further information from the Government would certainly in no way help the person detained, for further information relating to undisclosed facts would only prejudice the Board against the detenu and not help him at all.

[Shri J. R. Kapoor]

The Home Minister argues that if in any case we were to retain sub-section (2) as it is or we were to accept Prof. Shah's amendment, it is the executive which will ultimately be the deciding authority whether the facts are such as need not be disclosed in public interest or facts which need not be disclosed, because they relate to the defence or the security of the Union. True. But I do not think that Prof. Shah suggests at all that the executive Government or the detaining authority would be acting in any *mala fide* manner. Prof. Shah wants that a definite direction should be given in this Bill to the Government as to under what circumstances and what set of facts need not be conveyed to the person detained.

Shri Rajagopalachari: No. Sir. I understand Prof. Shah's mind better than the hon. Member.

Shri J. R. Kapoor: On all other occasions except this. On this occasion I understand Prof. Shah much better than anybody else here. Obviously Prof. Shah's amendment reads like this.

Shri Rajagopalachari: Do not read it now. We know it.

Shri J. R. Kapoor: "Nothing in sub-section 1 shall require an authority to disclose facts which relate to the defence or the security of the Union." Therefore he does not want to take away from the Government the right to determine whether a certain set of facts are such that their disclosure would be against the security of the country. He wants the Government to retain the authority absolutely with it. But while retaining the authority there must be some guiding principle before the Government. The question is whether these guiding principles should be those contained in sub-section (2) of section 7 or those contained in the amendment moved by Prof. Shah.

Mr. Deputy-Speaker: What remains if defence and security go?

Shri J. R. Kapoor: Many other things. May I draw your attention to the scope of section 3. Defence of India and security of the State remain. But the subsequent portion, maintenance of public order or maintenance of supplies go. The scope of section 3 is large and very wide. Half of it remains and half of it goes. Facts relating to black-marketing or ordinary questions of law and order must be given to the person detained if he is detained either for disturbing law and order or black-marketing.

The Home Minister tried to lay his hand on his old friend the Evidence Act. I wonder if it is the intention of the hon. Minister to take his stand on the principles of the Evidence Act while piloting this Bill. If so, I for one would certainly be prepared to give him my wholehearted support to every little thing that he has said. But we are giving a go by to all the principles of evidence and jurisprudence. To say that we must take our stand on the laws of evidence or the ordinary laws of jurisprudence is quoting sacred texts which do not find a place and need not find a place here. We should not try to find support from those texts.

I therefore submit that this moderate and reasonable proposition suggested by Prof. Shah should be accepted and let us have on record that for once at least we have accepted something which has been wisely suggested by Prof. Shah.

Mr. Deputy-Speaker: Is it not obligatory on the part of the Government to place all the grounds including those reserved under section 3 before the Advisory Board?

Shri J. R. Kapoor: No. Assuming for argument's sake that it is so the question is will the detenu be seized of all the facts?

Mr. Deputy-Speaker: Is it not open to the Advisory Board to call for any explanation from the detenu even in respect of these matters?

Mr. J. R. Kapoor: It may be legally open but I do not think it is fair for the Board to give any indication to the person detained of things which have been conveyed to them by the Government in confidence but not conveyed to the detenu. Otherwise the whole object of sub-section (2) is frustrated. Government considers them secret, confidential and against public interest to disclose them to the detenu. I would not be in favour of putting this interpretation on it, that it would be open to the Advisory Board to disclose all those confidential things. I would prefer Prof. Shah's amendment to be accepted. But if it is rejected it would be dangerous to interpret sections 7 and 10 as meaning that the Advisory Board will be authorised to disclose such confidential information to the detenu. That is entirely a different proposition.

Prof. K. T. Shah: Sir, since a reference has been made to me......

Mr. Deputy-Speaker: The reference has always been to the hon. Member's amendment.

Prof. K. T. Shah: Reading the two sections 7 and 10 together I would draw your attention to the fact that in section 10 the word is 'information', neither facts, nor grounds, nor evidence. In section 7—I do not wish to be subtle—I must draw attention to the fact that it is 'information', however you define the term information.

Mr. Deputy-Speaker: It says "all the materials placed and calling for such further information."

Prof. K. T. Shah: The materials are already there. As regards the further thing, it is 'information' only.

Shri Rajagopalachari: May I suggest that for the sake of fair discussion and brevity we exclusively devote our attention to this clause, and not take up clause 10 and all its wider implications. We will reach clause 10 presently. Within the limitations of the necessity of this clause we may discuss other clauses but now if we launch out on a consideration of what is provided for or not provided for in clause 10 we will have to come to it again. I am suggesting this only for the sake of conciseness.

Mr. Deputy-Speaker: That may be for the sake of avoiding this amendment.

Shri Himatsingka (West Bengal): I think this amendment is not necessary. As you rightly pointed out, sub-section (2) gives authority to the Government not to disclose certain facts, but clauses 9 and 10 of the Bill provide that the grounds on which the order has been made have to be placed before the Advisory Board, and the representation, if any, also has to be placed. Here the grounds will include all the facts necessary to be considered by the Advisory Board to come to conclusions. Therefore, necessarily Government will have to place all the facts which they want the Board to consider in order to uphold the order of detention. Therefore it will be to the interest of the Government that all the facts are placed before the Board. If the Board thinks that any further information is to be asked for from the detenu, they can certainly ask for such information also. I therefore do not think that this amendment is at all necessary in view of the provisions that are being proposed.

Shri Sarwate (Madhya Bharat): I want to bring to the notice of the hon. Mover that sub-section (2) is superfluous, irrelevant, and therefore he should consider dropping it. What is required under section 7 is that the grounds are to be mentioned and communicated to the detenu. As he has rightly pointed out—and I may take it that a counsel of his standing puts an interpretation which is correct—grounds do not contain facts—facts are something different from grounds. If the grounds only are to be communicated, then the question of facts does not arise. Therefore, the question of communication of facts is irrelevant at this stage. That is why I am suggesting that sub-section (2) becomes irrelevant and is unnecessary. Actually there is danger in my interpreting it that way and suggesting to drop it because the sub-section impliedly means that the Government is required to disclose all such fact as are not against public interests. It means that if they are not called upon to place any facts which are against the public interests, then impliedly they are required to communicate, along with the grounds, such facts as are not against the public interest. Will Government do it? Of course, it is in the interest of the accused, but I think that consistency and relevancy require that this sub-section should be dropped.

Shri Rajagopalachari: I am very grateful to Mr. Sarwate for making his point so precise and so clear, but I venture to submit he is not right. He was perfectly right when he said that in this clause it is provided that the detenu should have the grounds communicated to him. It may not be necessary, on the face of it, to put in a provision whereby Government is freed from any compulsory obligation to disclose grounds. But reading it more carefully Mr. Sarwate will see that the first clause provides that when a person is detained the authority making the order shall communicate to him the grounds. There is an obligation there to communicate the grounds. In fulfilling that obligation clause (2) provides that Government, however, is free not to

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disclose facts which it considers to be against public interests. If in the course of the framing of any grounds it has become necessary to include any particular fact and that fact if disclosed would go against public interest, the obligation placed by clause (1) does not place on Government the duty to disclose such facts. So, it is necessary to provide for such a clause.

Going to Mr. Kapoor's arguments, it is true that 'public interest' may not always mean what is referred to in the proposed amendment of Prof. Shah, namely the defence or the security of the Union or any part thereof, but it may be something less than the defence of India or the security of India, such as the intention of a particular organisation to remove the rails of a certain railway line on a particular day, or the intention of some other organisation to create a riot in a particular place which may not be big enough to threaten the security of the Union or the defence of India, but it may still be a matter which could not be disclosed in the public interest. Therefore, a provision like this proposed by Prof. Shah would result in the necessity on the part of Government to give to the detenu grounds including facts which would be against public interest to disclose. And how shall we deal with that situation? The measure as it stands gives immunity to the Government from disclosing such a thing. The difference arising between Prof. Shah and Mr. Kapoor is this. Prof. Shah wants it to be an absolute rule that when a thing relates to the defence or security of the Union it may not be disclosed, but when a thing does not relate to the defence or security of the Union it shall be disclosed. Mr. Kapoor thinks, however, that that would be an unreasonable position to take up, and that Prof. Shah being a well-known reasonable person he cannot be said to have taken up that position and that he really intends to leave it to the Government to decide whether it is against the defence or security of the Union. It is not proposed by Prof. Shah, according to Mr. Kapoor, that that should be a matter for decision on its own absolute merits and not a thing left to the discretion of the Government. Now, it does not rest with Mr. Kapoor to explain the meaning of the proviso—it will rest with the courts. And if Prof. Shah's amendment is passed the courts will certainly rule that it is not in the discretion of the Government to decide it, that it is only a matter of absolute fact and that if the grounds do not relate to the defence or security of the Union they must be disclosed. I cannot ask Mr. Kapoor to come to my assistance when the matter is before the Supreme Court. I consider that it is safe to take the meaning of the words used as they stand rather than depend on the interpretation of a friendly colleague. I submit we have to go back to the proposal as it stands. The wording as it stands is:

> "it considers to be against the public interest to disclose".

Prof. Shah proposes to omit the words above and wants to introduce:

> "relate to the defence or security of the Union, or any part thereof,.........".

Shri J. R. Kapoor: Supposing we use the words "it considers" before Prof. Shah's amendment?

Shri Rajagopalachari: No, no. I want again to draw Mr. Kapoor's attention to his own observations as he has quoted them now. He said that unless I admit the whole of the Evidence Act I have no right to refer to that scripture. The Evidence Act provides a very liberal kind of law for ensuring absolute justice. We are on common ground there but even in that scripture you find that a public officer cannot be compelled to disclose information of that kind if he considers it to be against public interests. I am not quoting scriptures to prove something wrong. I am proving by *a fortiori* that under the present measure it should be more open to Government not to disclose such grounds. Mr. Kapoor should not be led away by old phrases but should consider every situation on its merits before he makes an observation of that kind. Here I am proving that even where the ordinary law is concerned, when a particular immunity is provided for it should be much more easily provided for in a measure of this kind. It is not a case of the devil quoting scripture in this case. It is an *a ofrtiori* as they say in logic which should be accepted by Mr. Kapoor as satisfactory. If even in an ordinary case anything against the public interest cannot be disclosed, how can we proceed in dealing with persons who want to subvert the Government and create chaos in the State to disclose them? When they want all the grounds to be disclosed, how can we include such matters as will assist the very aim of those people against whom we try to pass this measure? (*Interruption*). I am not giving way, Sir. There is nothing very unclear about what I say and there is no reason to

interrupt. I proceed to say that in effect also it is impossible to give the discretion to anyone else. Before the matter is settled as to whether a thing is against the public interest or not, it can be decided only by the Government and not by anybody else. In the normal cases, at least there was a judge sitting at the time when the issue arose. Here there is no such judge sitting at the time when the issue arises. The detention order and the grounds should be served upon the person detained and there is no one to decide as to whether this matter belongs to this category or that category except the Government, so that physically we cannot have any improvement in the clause that has already been drafted and placed before the House.

The next question that arises is as to whether fairness and justice require this amendment. Whether we should provide for the public interest or only for the defence of India, we can understand the difference only through an illustration. Supposing certain persons other than the detenu concerned are involved and the grounds bring them in also, it would be against the public interest to disclose facts relating to X and Y to A and yet it may not fall within the class which Prof. Shah concedes might be excluded, namely, the defence of India and the like. The public interest would be served very ill indeed if we proceed to give grounds against other persons also who are involved in the same case; yet, it would be relevant for the ground. Apprehensions have been expressed that the Advisory Board may not be able to get a disclosure of all the points, and that justice may not be available. I have already referred to this briefly in my previous speech on the general debate. After this measure is passed, the executive Government stands to lose by keeping back anything which it should put forward to get its case accepted by the Advisory Board. If the Government had discretion over and above the Advisory Board's judgment, then there was meaning in all these debates and amendments, but since the case will go against the executive Government if there are not enough grounds and if anyone of those grounds which you withhold on the ground of public interest have to be disclosed and you do not disclose it, you—that is to say the Government—stand to lose. Therefore, it is in the interests of the Government to disclose all the grounds that are necessary to get the man's detention approved by the Advisory Board. Government has therefore the choice between two alternatives. If it thinks that it is against the public interest to disclose such and such a ground and yet unless it does it is likely to lose the case, then Government will choose between the two things. It will ask itself: Is the public interest served by getting this man detained or is the public interest served better by not disclosing this ground which it is necessary to disclose if we desire the man to be detained? Therefore, it is left to the proper authority that alone can decide which public interest it would like to serve. If the fact that should not be disclosed is so important that the public interest is better served by not disclosing it, then Government will lose the opportunity of getting the man detained with the approval of the Advisory Board on the basis of that ground. Therefore, now that the Advisory Board's conclusion is final and binding, any question depending upon whether the grounds are adequate or not is a question which has to be decided by the Advisory Board and if anything is not disclosed or anything is disclosed, these things should be left to the executive Government to decide. The detenu cannot be at all put to any disadvantage. If a material fact is not placed before the Advisory Board, the detenu stands to gain and does not stand to lose, unless it is his interest to get this matter disclosed even at the cost of his own liberty. Sometimes it may be so. I am quite sure that there may be cases of detenus who press for disclosure rather than for freedom because they believe in the objects for which they are working. I think therefore that for all these reasons the House will not misunderstand me if I do not accept this amendment. Prof. Shah's amendment would be dangerous because it would mean that the court or the Advisory Board or the outside public is to decide a matter which the Government alone can decide.

Mr. Deputy-Speaker: The question is:

Re-number clause 7 as sub-clause (1) of that clause and add sub-clause (2):

"(2) In sub-section (2) of the said Act, for the words 'it considers to be against the public interest to disclose', the following shall be substituted, namely:—

'relate to the defence or security of the Union, or any part thereof, but all other facts which bear upon the case which are calculated to enable the person detained

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under this Act to make an effective representation under sub-section (1) of this section.'"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

Re-number clause 7 as sub-clause (1) of that clause and add sub-clause (2):

"(2) After sub-section (2) of section 7 of the said Act, the following sub-section shall be inserted, namely:—

'(3) As soon as any order of detention is made against any person under this Act, all the facts and grounds for making such an order shall be placed before the Minister of Home Affairs of the Government of India.'"

The motion was adopted.

Mr. Deputy-Speaker: The question is:

Re-number clause 7 as sub-clause (1) of that clause and add sub-clause (2):

"(2) In sub-section (2) of section 7 of the said Act, the following shall be added at the end, namely:—

'unless they relate to the grounds of detention or antecedents of the detainee or are likely to affect the opinion of the Advisory Board in the matter of sufficiency of cause for the detention of the person concerned.'"

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8.—*(Amendment of section 8 etc.)*

Prof. K. T. Shah: I beg to move:

After part (i) of clause 8, insert new part and re-number the subsequent part accordingly:

"(ii) in sub-section (2)—

(a) the words 'or are qualified to be appointed as' shall be omitted;

(b) after the words 'Judges of' the words 'the Supreme Court, or of' shall be inserted; and

(c) the words 'or the State Government, as the case may be' shall be omitted."

In clause 8, as I suggest it to be, the members of the Advisory Board should be those who are, or have been Judges of the Supreme Court or of a High Court, and such persons should be appointed by the Central Government.

The point has been made already, in the course of the first debate that those who are expecting to have, or in the run for, such honours may perhaps not be accustomed to the same judicial attitude of impartiality and independence which those who are actually on the Bench and who have been acting in that capacity would be.

I further submit that these appointments should be made, even for the States, by the Central Government in these extraordinary cases. The Advisory Board has certain functions given to it and though, as I have pointed out in another connection, it is not precisely a tribunal, or a court of law or justice, it is nevertheless going to discharge judicial functions of reviewing the grounds, facts or considerations that may have been submitted to it in the case of a detenu by the authority concerned, as also what the person concerned may have furnished. If arising out of it, the Board, on its own authority or initiative, thinks that there should be some more information, it should be empowered to obtain it.

Now, I submit that in these cases, it would be much better, in the interests of justice and for the sake of fair play to the person detained, that those who are vested with the authority to consider these cases and the facts and information relating thereto, should have been habitually accustomed to deal with such matters in a judicial frame of mind and judicial atmosphere. The ordinary practising advocate is by the very nature of his daily work not perhaps in the same mood as the judicial members of the Bench. Not only are those actually practising the profession of advocates likely to adopt a partisan attitude, but without impugning in any way the honourable character of the profession, it may nevertheless be within human possibility to understand that these people may be influenced in favour of the authority which may have some favours to confer. Those who are on the Bench, or have retired from it and have spent years developing an outlook, a mentality, as guardians of civil liberties and of the Constitution, may be trusted, I think, much more fully to uphold the best traditions of

their life long occupation, of their judicial atmosphere and accordingly will be the proper persons of whom such Boards should be constituted.

Mr. Deputy-Speaker: May I suggest to the hon. Member and all the Members of the House, that in dealing with clauses like this whatever arguments have already been laid before the House at the stage of consideration, need not be repeated again.

Prof. K. T. Shah: I am well aware that this matter was thrashed out sufficiently long and *in extenso* at the consideration stage.

Mr. Deputy-Speaker: Is it necessary to refer to the same arguments again?

Prof. K. T. Shah: There is only this much to be said. While we were having a general debate, several points were no doubt urged on the basis of the entire Bill, as taken collectively. I am anxious, perhaps more than you realise, that the discussion should be expedited. Unless these amendments are supported by arguments at the time of the amendments, it is not possible to impress the necessity of the amendments.

Mr. Deputy-Speaker: I think all those points on which stress has been laid during the general discussion need not be emphasised once again.

Prof. K. T. Shah: I only wish to conclude by saying that the claims made on behalf of the impartiality of the judicial members will be appreciated and the amendment would accordingly be accepted.

Mr. Deputy-Speaker: The question is:

After part (i) of clause 8, insert new part and renumber the subsequent part accordingly:

"(ii) in sub-section (2).

(a) the words 'or are qualified to be appointed as' shall be omitted;

(b) after the words 'Judges of' the words 'the Supreme Court, or of' shall be inserted; and

(c) the words 'or the State Government, as the case may be' shall be omitted."

The motion was negatived

Shri Kamath: I beg to move:

In clause 8, insert new part and re-number the existing parts accordingly:

"(i) in sub-section (1) the words 'whenever necessary' shall be omitted".

This is a very minor amendment, but I would like to point out to the House and to the hon. Minister that on the last occasion, that is about a year ago, when the original Bill was before the House I had moved two amendments of which this was one, and a year later, today, I find that one of those two has been accepted. The amendment which has been accepted relates to the composition of the Advisory Board, suggesting that it might be increased from two to three. I suggested that last year—and as we all know all Governments are, slow-moving, in the nature of things, and our Government which is bureau-democratic in its set-up is no exception to this rule—they have accepted it now. We should not be surprised, when the season of *basant* comes next year, if this amendment of mine also is accepted in another amending Bill next February!

The point of this amendment is very simple. I think that these words are redundant and superfluous. The clause lays down that the Central Government and each State Government shall constitute one or more Advisory Boards "for the purposes of this Act". Therefore there is absolutely no necessity for this phrase "whenever necessary". We have made it clear that the Board shall be constituted for the purposes of this Act. Sardar Patel answering this point last year briefly said—we all know how the Bill was hustled in the House last year; there was no time for a full-dress discussion—Sardar Patel merely said that the removal of the words "whenever necessary" would mean that even if there are no detenus the Board should be formed. That is all he said, and in one sentence he disposed of the amendment. My point is when you say that the Board shall be constituted "for the purposes of this Act"—and not for any other purpose—that is, only when there are detenus—the purpose of this Act has to be implemented and then the Board has got to be formed; when you have said that then these two words are absolutely unnecessary. Our Constitution is known to be an elephantine Constitution and we are prone to stuff in plenty of ballast. But I think this ballast can be safely omitted without any loss of meaning to this clause.

Shri Rajagopalachari: Before actually I begin let me bring to the notice of hon. colleagues in the House that this Bill has taken so much time that the Whip and the people who are interested in the Supplementary Grants, Railways and General, are pressing on me the desirability of speeding up the disposal of this Bill, so that the rest of the business of the House may not be disturbed. I do not think we should waste much time on very small amendments of this kind. If we try we can be much briefer.

Now, the words "whenever necessary" here, if omitted, would result in this that the Government is bound to appoint Advisory Boards even though there is not a single detenu in the particular State and we will have to keep the Boards going for nothing. The inclusion of these words only means that we may sometimes have the good fortune of having no detenus in a place and therefore it is not necessary to have more Judges than detenus.

Mr. Deputy-Speaker: Inasmuch as it is not a matter of substance and the only thing that the hon. Member wants is to see that redundancy is avoided, there is no harm in allowing it as it is. I take it that the hon. Member is not pressing his amendment.

Shri Kamath: I am not pressing it.

Pandit Kunzru: I beg to move:

For part (i) of clause 8, substitute:

"(i) in sub-section (2) for the words 'two persons' the words 'a Chairman who shall be a Judge of a High Court to be nominated by the Chief Justice of the High Court and two other persons' shall be substituted; and".

Sub-section (2) of section 8 of the Preventive Detention Act, as amended by the Bill, will read as follows:

"Every such Board shall consist of three persons who are, or have been, or are qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the Central Government, or the State Government, as the case may be."

Now, if my amendment is accepted, this sub-section will read as follows:

"Every such Board shall consist of a Chairman who shall be a Judge of a High Court to be nominated by the Chief Justice of the High Court and two other persons who are, or have been, or are qualified to be appointed as, Judges of a High Court......etc."

The difference between me and the Government is that I want it to be laid down specifically in sub-section (2) of section 8 of the Preventive Detention Act that the presiding officer shall be a High Court Judge and that he should be nominated by the Chief Justice of the High Court. My hon. friend the Home Minister read out yesterday the names of the Members of the Advisory Boards in different States. Many of the names no doubt will give satisfaction to the public. But I heard last year complaints against the constitution of the Boards in certain places. I think it will be agreed that, generally speaking, in every case it will be desirable that the Chairman of the Advisory Board should be a High Court Judge. This will give greater satisfaction to the public and ensure the judicial consideration of such material as is placed before the Board. It will also ensure the independence of the Board, which is essential in the opinion of every right thinking man. It may be that many of the Boards, or that every Board has so far worked satisfactorily. But we have to take public opinion into account. And if by making the change proposed by me we can give greater satisfaction to the public and make it feel that the Boards will be independent, there is nothing to be lost and everything to be gained by the acceptance of this amendment. I hope—I hope against hope— therefore that my amendment will be acceptable to Government. My hon. friend has refused to accept even simple amendments that he might have accepted. He may, proceeding in the same way as he has done, refuse to accept this amendment too and say that everything should be left to the discretion of the Government. But it is precisely against the discretion of the Government that we are fighting. We want to limit its discretion and limit it in such a way as to secure better the protection of the public interests. I press therefore for the acceptance of my amendment.

5 P.M.

Shri Rajagopalachari: I am sorry to fulfil the fear rather than the hope of my hon. friend, Pandit Kunzru. The High Court Judges have been appointed by Government and they have not given any dissatisfaction to the general public. The Chief Justices have all been appointed by Government and Government have not failed in their duties in that respect. The

question now is whether we can afford to have a statutory clause like this, that in every Advisory Board, wherever they may be, the Chairman should be a Judge. Very probably it may be so, but it may not always be possible to fulfil that expectation. I can accept half...

Pandit Kunzru: If my hon. friend will allow me to interrupt him, I should like to say that there is another principle involved too, namely. that at least one Member of the Board should be nominated by the independent authority and not by the Government.

Shri Rajagopalachari: Yes. Even about the Judges who have been already appointed, he has not full faith and he wants the nomination itself should be by another judge. Now, all this, I submit is not right. It is not right statutorily to introduce such clauses. I think that more satisfaction will be obtained by leaving the matter to the Government. Was it any statutory obligation that compelled the Government to appoint the persons whose names I read out the other day? I do not think that we need distrust the Government so much. The question now is whether it should be restricted statutorily or not. I very readily accept the suggestion of Pandit Kunzru as an executive matter, but I oppose the inclusion of it in the clause here.

Mr. Deputy-Speaker: The question is:

For Part (i) of clause 8, substitute:

"(i) in sub-section (2) for the words 'two persons' the words 'a Chairman who shall be a Judge of a High Court to be nominated by the Chief Justice of the High Court and two other persons' shall be substituted; and"

The motion was negatived.

An Hon. Member: It is five o'clock, Sir.

Mr. Deputy-Speaker: Hon. Members will kindly bear for a while. We have discussed most of the amendments here.

Pandit Thakur Das Bhargava: I beg to move:

Omit part (ii) of clause 8.

In moving this amendment, I rely upon the very wholesome and healthy principle that in questions of procedure the subsisting law should be followed and not the old law. So far as the present part (ii) goes, it appears to make a distinction between one class of detenu and another class of detenu. According to article 14 of the Constitution "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." What have these unfortunate detenus done or what fault have they committed that they should be denied the opportunity of their cases being decided by three Members of the Advisory Board? What is the difference between two and three? It is to Government's interest. Suppose there are two members and they disagree, what would happen? The detenu will be released, and the detenu will not also get the benefit. If the detenu gets the advantage of his case being considered by three gentlemen of the Advisory Board, then it will be a gain to him *(Interruption)*. I do not understand why my hon. friend should deny this. I do not know what he will like. So far as I am concerned, I would rather like that the liberalizing influence of the present Bill should be given to everybody. Whether it is to his advantage or disadvantage, I do not mind. Since Government are pleased to accept the provision of three judges instead of two, I do not see how Government would be justified in denying this to the detenus who are detained before a certain date. I therefore, think that this provision is necessary and the provision which is now contained in the Bill should have effect and every person should have the advantage of his case being adjudged by three persons.

Mr. Deputy-Speaker: Amendment moved:

Omit part (ii) of clause 8.

Shri J. R. Kapoor: I want to oppose the amendment moved by my hon. friend, Pandit Thakur Das Bhargava and I take this opportunity to congratulate the hon. Home Minister who has been so successful in his advocacy that he has been able to persuade every one of us to believe that every clause of the amending Bill is a liberalising one whereas as a matter of fact this one amendment proposed in clause 8 is not a liberalising one; it is more conservative than the existing one. The existing rule is that the Advisory Board consists of two Judges and even if one of the judges does not agree to the detention of a person that person would be released. Hereafter instead of two persons in the Advisory Board, there will be three and if one of these does not agree to the detention, then the man will continue to be

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detained. It is not a liberalising amendment but a restrictive amendment. My hon. friend, Pandit Thakur Das Bhargava's intention is that the existing detenu should not be placed in a more disadvantageous position than the detenus who would come hereafter. Under the existing rule detenus would be released even if one of the judges does not agree to the detention and if his amendment is accepted, it will be necessary for at least two members of the Advisory Board to express an opinion that detention is not necessary and then alone the person shall be released. I therefore think that the detenus must continue to have the advantage of the existing law and it should not be subjected to the disadvantage of the amendment proposed by Pandit Bhargava.

Shri Rajagopalachari: After five o'clock, we should try to be very brief. I do not know if hon. Members have been able to follow, but the provision is in respect of those cases alone which are now pending disposal before the present Advisory Boards which consist of two Members. In respect of those cases which are pending and which are likely to be disposed of very quickly before all the appointments for the new Advisory Boards and other necessary things are done why should they be delayed till the new constituted Boards sit to work?

Then, the question whether there is any disadvantage to the detenu may first be considered. There is no disadvantage. Because, under the articles of the Constitution and under the provisions we have made, no man shall be detained if the Advisory Board does not give approval of the detention order. If the two judges differ, you cannot get an approval from the Advisory Board and the man will have to be released as Mr. Kapoor has pointed out. We are not interested only in the release of the detenue. Let us be interested in public affairs to some extent. Here are cases which are pending. Why should they be delayed? They should not be delayed. That is the reason why this provision has been made. I am sure Pandit Thakur Das Bhargava did not realise that it is in favour of the detenus. If it were, I am sure, he would join hands with Mr. Kapoor.

Mr. Deputy-Speaker: I suppose the hon. Member is not keen on pressing this amendment.

Pandit Thakur Das Bhargava: On principle, Sir. I still maintain that there should be three judges.

Mr. Deputy-Speaker: The question is:

Omit part (ii) of clause 8.

The motion was negatived.

Shri Kamath: I would like to know from the hon. Minister the *raison d'etre* of the amendment proposed by the hon. Minister, which seeks to increase the strength of the Board from two to three. Last year, his predecessor, Sardar Patel, and down a proposition which was very clear. I see no reason why Government today should go contrary to the proposition laid down at that time. He said on that occasion:

> "......if the Board is formed of two members and if the two disagree, then there is no basis on which the order can stand; according to the Constitution itself. Therefore automatically the order falls."

That was in relation to an amendment of mine and he said, that if my amendment was accepted:

> "It will put the Government to additional expense on the third member and put the detenu to the trouble of convincing three persons instead of two."

Of course, it is today laid down that the opinion of the majority will prevail. But, if the proposition of Sardar Patel was to stand, then, the Board would have continued to consist of two members only, and there is no necessity to increase the strength to three, because if the members disagree, the order automatically falls. Only if all of them agree, the order will be confirmed and detention will continue. I would like to know from the hon. Minister why it has been thought necessary to increase the strength of the Board from two to three.

Shri Rajagopalachari: Because we feel that it is better to give a chance for the majority opinion to prevail and have three people to decide the matter instead of two.

Shri Kamath: In the interests of economy, why should the strength of the Board be raised from two to three?

Shri Sidhva: (Madhya Pradesh): In considering this matter, question of economy should not come in.

Shri Kamath: If the two disagree, the order automatically falls through.

Mr. Deputy-Speaker: There seems to be this difficulty also. In clause 11 of the Bill, it is not as if they must positively give some opinion whether they accept or reject the grounds. Sub-clause (2) runs as follows:

> "In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of a person, the appropriate Government shall revoke the detention order and cause...... etc."

If there were only two persons, it is not possible to say whether there is any order or not, in which case the detention will continue. The Government order, otherwise......

Shri Rajagopalachari: There is another clause which deals with that.

Shri Kamath: The order will be confirmed only if both agree. If they do not agree, the detenu will be released.

Shri J. R. Kapoor: The present law is more liberal.

Shri Rajagopalachari: It does not depend on one particular ground only. Since we have expanded the operation of the Act, it is necessary to provide for many things which we had not provided for before. Since every case has to be decided and not only black-marketers' cases, we have to provide for a Bench of three so that there may be a positive judgment at least from two.

Mr. Deputy-Speaker: The question is:

> "That clause 8 stand part of the Bill."

The motion was adopted.

Mr. Deputy-Speaker: I wish to inform hon. Members that—of course, there is no intention to curtail the debate—the general discussion has taken five days and we have been discussing it clause by clause on the 15th and today. The House will have to be adjourned to the 19th. As hon. Members know, 19th has been fixed for the consideration of Supplementary Demands. Now, that will have to stand over. I am giving this for the information of hon. Members so that we may deal with this Bill as speedily as possible, of course, without any limitation on the discussion of important matters.

Shri Sidhva: Why not sit tomorrow?

Shri Rajagopalachari: Is it understood, Sir, that this Bill goes on to Monday?

Mr. Deputy-Speaker: This Bill will be taken up on Monday.

Shri Kamath: What happens to the Supplementary Demands?

Mr. Deputy-Speaker: The Supplementary Demands will stand over and will be taken up after this Bill is disposed of.

INDO-PAKISTAN TRADE CONFERENCE

The Minister of Commerce and Industry (Shri Mahtab): With your permission, Sir, I beg to inform the House that the Government of India and the Government of Pakistan have agreed that a Conference should be held at official level to consider the resumption of trade between the two countries. The Conference will meet in Karachi on Monday, February 19th and subsequent days.

The House then adjourned till a Quarter to Eleven of the Clock on Monday, the 19th February, 1951.