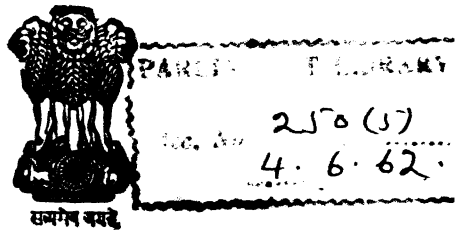


Friday, 9th February, 1951

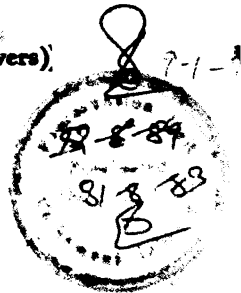


PARLIAMENTARY DEBATES

(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

1293

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PARLIAMENT OF INDIA

Friday, 9th February, 1951.

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

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

REHABILITATION PLAN

*1302. **Shri Raj Kanwar:** Will the Prime Minister be pleased to state whether the Planning Commission have drawn up or considered or propose to consider any scientific or systematic Plan of Rehabilitation of displaced persons?

The Prime Minister (Shri Jawaharlal Nehru): The Planning Commission has been in close touch with the Ministry of Rehabilitation regarding the progress of rehabilitation generally and, in particular, the immediate problems of rehabilitation of displaced persons from East Pakistan which the Ministry is handling. The Commission has received the development plans of State Governments and is at present working out its proposals, so that the development plans make the maximum contribution to the rehabilitation of displaced persons.

Shri Raj Kanwar: Will a proper development plan be formulated by the Planning Commission?

Shri Jawaharlal Nehru: For what?

Shri Raj Kanwar: For the rehabilitation of displaced persons.

Shri Jawaharlal Nehru: No, Sir. The Planning Commission only wishes to bring its own planning scheme, in so far as possible, into line with the plans for the rehabilitation of displaced persons. That is, it attempts to co-ordinate the activities of the Rehabilitation Ministry with its own planning.

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Shri A. C. Guha: The hon. the Prime Minister stated in his answer that there is a particular plan for the rehabilitation of East Bengal refugees. May I know what is the plan for the rehabilitation of the East Bengal refugees?

Shri Jawaharlal Nehru: I am merely informing the House that the Planning Commission is discussing its own plans for development with the Rehabilitation Ministry so as to give the largest scope for the employment of displaced persons.

Shri A. C. Guha: Is there any housing scheme for the East Bengal refugees?

Shri Jawaharlal Nehru: That is not the Planning Commission's business; it is the Rehabilitation Ministry's business.

Shri Chattopadhyay: May I know whether the schemes that have been taken up by the Rehabilitation Ministry come up for scrutiny before the Planning Commission?

Shri Jawaharlal Nehru: I could not give a straight answer to that; perhaps my hon. colleague might. Such schemes as relate to development probably do, not other schemes. Perhaps my hon. colleague will throw light on it.

The Minister of State for Rehabilitation (Shri A. P. Jain): There are two parts of it. The first is the question of immediate rehabilitation. Those schemes do not go before the Planning Commission. But we are now having more mature and, what I might call, medium-range schemes. About those schemes we are consulting the Planning Commission.

Shri Tyagi: May I know whether the hon. the Prime Minister will kindly inform the House as to whether any of the schemes or plans of the Planning Commission have been accepted by the Government and brought into action and whether the Planning Commission have made any recommendations—complete plans—with regard to rehabilitation or other schemes?

Shri Jawaharlal Nehru: No proposals or plans as such of the Planning Commission have been placed before the Government yet. They have been considered by individual members of Government who are sometimes invited to the Planning Commission to discuss matters. But the final proposals have not been framed by the Planning Commission itself yet.

Shri Tyagi: Have the Government asked the Planning Commission to plan in respect of certain programmes and have they asked them to give them something complete?

Mr. Speaker: It is going beyond the scope of the question.

Shri A. C. Guha: Is the development of the Andamans included in the plans for the rehabilitation of East Bengal refugees?

Shri Jawaharlal Nehru: All I can say is that this matter was considered by the Planning Commission and it has also been considered by the Rehabilitation Ministry. I do not know at what stage it is.

INDO-PAKISTAN TRADE AGREEMENT OF 1950

*1303. **Shri A. C. Guha:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether the transactions under the Indo-Pakistan Trade Agreement of 1950 have been completed;

(b) whether the accounts on both sides have been balanced;

(c) if not, which side has the adverse balance and to what extent; and

(d) what were the articles exchanged and what was the value of each of these articles?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) No, Sir.

(b) and (c). The accounts have not yet been finalised.

(d) A statement giving the requisite information up to the 30th September 1950, is laid on the Table of the House. [See Appendix XI, annexure No. 9.]

Further information is being collected.

Shri A. C. Guha: Is there any idea of extending the Pakistan Trade Pact?

The Prime Minister (Shri Jawaharlal Nehru): Sir, may I answer it? We have always been prepared and anxious to have trade relations where possible. We have now suggested to the Pakistan Government to have talks on this subject. That is the present

position. I might add that some preliminary exchanges in order to have future talks are going to take place in the course of the next few days.

Shri A. C. Guha: May I know how much textile goods were exported to Pakistan?

Shri Karmarkar: Indian textile goods yet to be exported to Pakistan is about 14,351 bales of the value of Rs. 82 lakhs. The quantity agreed to be exported will be found in the Agreement.

Shri A. C. Guha: Was it done according to the recommendation of the Central Cotton Advisory Board?

Shri Karmarkar: Is the hon. Member referring to the Agreement or to the export?

Shri A. C. Guha: To the export.

Shri Karmarkar: The export was made in accordance with the Agreement arrived at with Pakistan, and the export to be made is also a balance arising out of that Agreement.

Shri A. C. Guha: Did the Central Cotton Advisory Board approve of the quantity exported?

Shri Karmarkar: I shall require notice of that question.

Shri Rudrappa: May I know whether the Government is aware that some of the perishable food articles like pulses and gram which were purchased and paid for by Indian merchants have been held up in transit?

Shri Karmarkar: There is a system by which perishable articles and certain other articles are permitted to be exported freely without licensing or payment restrictions. They include dry fish, betel leaves, indigenous sewing machines, fresh fruits and fresh vegetables including onions, etc.

Shri Rudrappa: I want to know whether pulses and gram which were purchased and paid for by Indian merchants were held up during transit and have not been released.

Shri Karmarkar: I would like to find it out and inform the hon. Member.

Shri S. C. Samanta: May I know the amount of cotton received from Pakistan?

Shri Karmarkar: I should like to have notice of it.

Shri Rathnaswamy: Is it a fact that a high Government official has recently gone from India to Pakistan to discuss trade matters?

Shri Jawaharlal Nehru: I have just stated that the officials have gone

there, not to discuss trade matters, but preliminaries to a future discussion of trade matters.

Shri Chattopadhyay: May I know whether Pakistan has made some gesture for opening negotiations for exchange of commodities on a barter basis?

Shri Jawaharlal Nehru: I do not know what is called a 'gesture'. But we correspond frequently and they expressed their willingness and desire to do so. There is no particular special gesture except this correspondence, which is continually going on.

Shri Tyagi: Has she made any overtures?

Mr. Speaker: Order, order.

Prof. Ranga: The hon. the Deputy Minister just now stated that we have yet to export 14,551 bales of textile goods. I want to know whether it includes the export of yarn also, in view of the recent ban placed on the export of yarn. I would like him also to say what steps they are taking to push up our exports of hand-woven goods in preference to mill cloth.

The Minister of Commerce and Industry (Shri Mahtab): The statement has been laid on the Table from which hon. Members will know that a certain Agreement was arrived at. But it was not fully implemented. Although certain goods were to be imported and exported, it was not given effect to fully by either side. 1950 is now over. So we are now in the process of approaching them for a new Agreement. Therefore any discussion of that Trade Agreement is profitless.

Prof. Ranga: What about the export of yarn?

Shri Mahtab: Export of yarn has been stopped.

Prof. Ranga: And hand-woven goods?

Shri Mahtab: Everything is stopped. There is no trade relation between India and Pakistan today.

Shri A. C. Guha: Am I to understand that this 'probable negotiations' with Pakistan will be independent of the solution of the Exchange question on barter basis or will it be contingent upon the settlement of the Exchange ratio question?

Shri Mahtab: Sir, the two questions are vitally connected.

CEMENT

1904. Shri A. C. Guha: Will the Minister of Commerce and Industry be pleased to state:

(a) the number of cement factories

in India with total production capacity in the years 1947, 1948, 1949 and 1950;

(b) the total quantity produced in those years;

(c) how much has been imported during those years;

(d) how much of the total available quantity was ear-marked for Government departments and how much was given to the public; and

(e) how is the latter quantity distributed among different States?

The Minister of Commerce and Industry (Shri Mahtab): (a) to (e). Two statements are laid on the Table of the House. [See Appendix XI, annexure No. 10.]

Shri A. C. Guha: Was there an All India Marketing Organization for marketing of cement?

Shri Mahtab: Up till now the whole country was divided into six zones exactly not on the lines of the administrative boundaries of the States and accordingly a marketing arrangement was made and that is now going on.

Shri A. C. Guha: My question was whether there is any All India Marketing Organization now so that there could be equal prices in all the States?

Shri Mahtab: There is no All India Marketing Organization now. We are discussing with the industry to set up such an organisation, as suggested, so that the prices will be more or less on the same level.

Shri A. C. Guha: Has any case come to the notice of the Government that a manufacturer of cement in India has also been an importer of foreign cements and there has been some manipulation in prices due to that?

Shri Mahtab: May be because cement for some time was on O. G. L. Cement manufacturers might have been importers but that does not affect the position of price.

Shri Tyagi: May I know as to what has happened to the hope which the hon. Minister has raised in one of his speeches in which he said that the cement was going to be decontrolled?

Shri Mahtab: It was really not a speech but some of the Members of the Chamber of Commerce of Madras asked me a question whether cement would be decontrolled or not. To that I said that cement would be decontrolled provided—that was a sort of retort—the South Indian factories do not object to it. As a matter of fact that is under consideration, and if cement is decontrolled, our fear is that

the South Indian factories will suffer. The whole thing is under consideration.

Shri Sidhva: May I know what is the stock of cement at present and whether it is more than production?

Shri Mahtab: The statement gives the information. When the cement was on O. G. L. as much as 371,760 tons of cement were imported. That improved the position to such an extent that there is enough stock now and cement price is not subjected to variation on account of international conditions.

Shri M. C. Shah: May I ask if the Government has received a memorandum from the A.I.C.A. about the rapid rise in production of cement and at the same time suggesting decontrol?

Shri Mahtab: Yes, that is a fact.

Shri Alagesan: May we know how the South Indian factories will suffer and what is the extent of loss that will be suffered by the South Indian factories?

Shri Mahtab: That is a question of argument. Cement decontrol is now under consideration and when we come to a decision the hon. Member will be perfectly entitled to know the reason and whether all the factories will suffer or not.

Shri Brajeshwar Prasad: Is it a fact that 3,500 tons of cement were allowed to deteriorate by the authorities of the Damodar Valley Corporation? If so, what is the amount of the loss?

Mr. Speaker: I do not think that arises. We had better go to the next question.

IRON AND STEEL MATERIALS

*1395. **Prof. S. N. Mishra:** Will the Minister of Works, Production and Supply be pleased to state:

(a) whether it is a fact that iron and steel materials worth about Rs. 8 crores are locked up with the Iron and Steel Controller;

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

(c) what action has been taken on the recommendation of the Estimates Committee for their immediate disposal?

The Minister of Works, Production and Supply (Shri Gadgil): (a) and (b). No, Sir. Book value of stocks of iron and steel awaiting disposal on 1st January, 1951 amounted to Rs. 94 lakhs approximately.

(c) Bulk of iron and steel items has already been disposed of and the

balance (Rs. 94 lakhs book value approximately) does not represent any serious problem. This entire stock is expected to be cleared by the end of March next.

Prof. S. N. Mishra: It seems from the reply that the release was made after the report of the Estimates Committee. Was no action taken previous to the report of the Estimates Committee?

Shri Gadgil: I have to say with regret that the position was not sufficiently and properly understood by hon. Members of the Estimates Committee. The position is this, that the book value of the thing amounted to Rs. 8 crores. What happens is that articles as enumerated here are allocated by the Steel Controller along with fresh production to registered stockists. The registered stockists are then asked to pay to the Account branch and after the payment is received, then it is progressed and release order is issued as against that. Therefore there is always a time-lag between allocation and delivery. The position is all that has been disposed of. What remains to be disposed of is, as I stated in the reply, namely, the goods the book value of which is approximately Rs. 94 lakhs.

Prof. S. N. Mishra: For what period was the stock locked up?

Shri Gadgil: I cannot say for what period the stock was locked up, but so far as the goods amounting to Rs. 94 lakhs is concerned, there has been no want of willingness on the part of the authorities to dispose of the same. Only in one case there has been a little delay. That was with respect to 18 lakh ft. of 4 inches and 6 inches oil pipes. We were about to dispose of it when the Agricultural Ministry wanted it for their campaign of Grow More Food. As a result of that the various State Governments were written to and asked to buy. But nothing was done. Now we are again writing and if they do not buy, the whole thing will be sold by public auction.

Shri Sidhva: Is it not a fact that the tools, alloys, steel tubes fittings etc. amounting to Rs. 8 crores book value, were not disposed of before the Estimates Committee reported? That is the point.

Shri Gadgil: It was disposed of notionally in the sense it was given in the charge of the Controller who along with the fresh production makes an allocation to registered stockists. So far as this part of disposal is concerned for all purposes that stock is disposed of although the money comes in gradually and therefore, in the statistics branch it was shown that the 8 crores stock was still there, but as a

matter of fact it was in the process of allocation to registered stockists.

Mr. Speaker: What the hon. Members want to know is the length of the time lag between the disposal and when the money is received.

Shri Sidhva: The answer is not forthcoming.

Mr. Speaker: Order, order. Let there be no discussion. Is the hon. Minister in a position to give the length of the time lag between the disposal and when the money is received?

Shri Gadgil: Will you repeat the question, Sir?

Mr. Speaker: What is the length of the time lag between the notional disposal and the actual realization of the money?

Shri Gadgil: The period of time? I require notice of this question.

Mr. Speaker: I think we had better go to the next question.

Shri Tyagi: The Estimates Committee has been involved in this matter. On a personal explanation, I am a Member of the Estimates Committee.

Mr. Speaker: Order, order. I am not prepared to allow any personal explanation. Let us go to the next question.

Shri M. A. Ayyangar: With your kind permission, Sir, may I ask one question. There is no quarrel with anybody. What the hon. Minister said was that the Estimates Committee has misunderstood. We would like to know what we have misunderstood.

Mr. Speaker: Paraphrased, it means that the matter was not properly explained to them. Let us go to the next question.

Shri Tyagi: It is still there; it is not sold.

Mr. Speaker: Order, order; the hon. Member should not obstruct the proceedings in that manner.

MACHINE TOOLS

*1306. **Prof. S. N. Mishra:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that 600 machine tools worth a crore of rupees, originally reserved for the Machine Tool Factory, were allowed to deteriorate and later released to various Government Departments; and

(b) if so, the reasons therefor?

The Minister of Commerce and Industry (Shri Mahtab): (a) No, Sir.

(b) Does not arise.

Prof. S. N. Mishra: May I know in what number originally machine tools were there including those from German reparations?

Shri Mahtab: The total number of machineries received as reparations was 10,472 items, out of which 2,800 are now lying, and the remaining has been disposed of one way or the other.

Prof. S. N. Mishra: May I know whether those that have been disposed of were not required for the Machine Tool Factory?

Shri Mahtab: At one time—I think the hon. Member's information is based on that—three years ago, when these German reparations machineries arrived in India, there was a proposal that about 300 of them should be reserved for the proposed Machine Tool Factory. But, it took a long time to come to a decision whether a Machine Tool Factory would be set up or not. In the meanwhile, the Railway Ministry and the Defence Ministry had wanted the very same machineries for themselves. Therefore, these 300 machines were transferred to the Railway Ministry and Defence Ministry.

Shri M. A. Ayyangar: Is it not a fact that an Expert Committee was appointed to go into this matter to find out what tools could be useful and could be preserved for the Machine Tool Factory? Is it not a fact that that Committee—the present Director-General of Disposals was one of the Members of that Committee—reported that a large quantity of these machine tools must be reserved? In spite of that report, how is it that they came to be disposed of?

Shri Mahtab: As a matter of fact, as I told you, had these been reserved for the Machine Tool factory all these three years, Government would have purchased for the Railway Ministry and the Defence Ministry the same kind of machines. It is only a transfer from one Department to another. It is not a fact that these have been disposed of to outside people. The reparations machineries have been disposed of to the Railway Ministry and Defence Ministry.

Prof. S. N. Mishra: May I know whether because of that transfer, the estimated cost of the Machine Tool Factory has risen up to any extent?

Shri Mahtab: No; that has not been the case.

Sardar B. S. Man: Is it a fact that apart from the Defence Ministry, many of these valuable tools were disposed of to private parties such as Birlas?

Shri Mahtab: I do not think so. The 300 machines which were reserved as a result of the recommendations of the Committee referred to by my hon. friend Mr. Ayyangar, have been given to the Defence Ministry and the Railway Ministry.

Shri Gautam: Is it not a fact that while these machine tools were being disposed of, Government was negotiating to start a new Machine Tool Factory, and these negotiations also were being carried on at the same time?

Shri Mahtab: I think it is known to the House that Government have at last come to the decision that Machine Tool Factories would be set up—not only one, but two—one organised by the Defence Ministry and the other organised by the Industry Ministry. These two are in process of construction. We cannot wait for three years and hold up the purchases of the Railway Ministry and the Defence Ministry so far as their requirements are concerned. These reparation machines have gone a great way in meeting the demands of the Railway Ministry and the Defence Ministry.

Shri A. C. Guha: Is it not true that the Disposals Utilisation Committee reported that 1,500 machine tools from the Disposals, 4,000 machine tools to be received from the German reparations are to be kept apart for the Machine Tool Factory, and they gave an estimate of 3 crores and 25 lakhs for the Machine Tool Factory?

Mr. Speaker: He is repeating the same question; he has explained it more than once. Next question.

CLOTH PRODUCTION

*1307. **Shri Sidhva:** (a) Will the Minister of Commerce and Industry be pleased to state what is the position of cloth production in India at present?

(b) Are superior varieties of cloth available in the country?

(c) Have the manufacturers opened any retail shops for sale of cloth in Bombay and other places?

(d) If so, what kind of cloth is sold there?

(e) Are there any Government cloth shops opened and if so, where and how many?

The Minister of Commerce and Industry (Shri Mahtab): (a) The average monthly production of cloth during 1949 and 1950 was 325 million yards and 303 million yards respectively.

(b) Yes.

(c) Yes.

(d) Long cloth, shirting, dhoty, saree etc.

(e) So far only the Bombay Government have opened retail shops. There are 15 such shops in Greater Bombay and 2 or three in each of the districts. In addition, the services of a large number of Co-operative Societies are being utilised by that Government. Our Government have recommended to the State Governments to open such shops as has been done in Bombay.

Shri Sidhva: My first question is, what is the present position of cloth, today. The hon. Minister gives figures of production for 1949. I want to know what is the present position of stocks in the country.

Shri Mahtab: It is very difficult to know the present stocks because the stock does not lie with the Government. It is with the whole-salers, retailers, and in all the States spread over. The position will be clearly seen from the figures which I have given. The average monthly production in 1949 was 325 million yards and the production per month in 1950 is 303 million yards. That is to say the position is worse than what it was in 1949.

Shri Sidhva: I want to know whether the Textile Commissioner, Bombay, whose department is maintained at a cost of one crore of rupees, has got this information or not. Do they keep this information or not?

Mr. Speaker: The hon. Member will see that his question is, "what is the position of cloth production in India at present".

Shri Sidhva: At present means today.

Mr. Speaker: Figures of production and not of stock.

Shri Sidhva: But he is quoting figures of 1949 and 1950.

Shri Mahtab: I have given the figures for 1949 and 1950 separately. Today, we are in 1951. I do not know what the production this month is.

Shri Sidhva: Up to December 1950?

Shri Mahtab: Yes; up to December. I gave the figures separately; I said definitely 'respectively'.

Shri Sidhva: Have I understood the hon. Minister to answer part-(b) of the question in the affirmative?

Shri Mahtab: Yes.

Shri Sidhva: Is it a fact that some of the stocks of superfine cloth with the

Co-operative societies have been purchased by well known big merchants of Bombay and cornered by them?

Shri Mahtab: I have no information; I will make enquiry.

Shri Sidhva: Has any representation been made by the Bombay Government?

Shri Mahtab: No. Whenever any representation of that nature comes, I personally make investigations.

Shri Sidhva: Has any representation been made, personally or to the Government?

Mr. Speaker: He has replied in the negative.

Shri M. A. Ayyangar: May I ask the hon. Minister whether since December last, the prices have gone up and if so by how many times?

Shri Mahtab: That question comes later on on that very point.

Shri Alagesam: We understood the hon. Minister to say that the example of the State of Bombay may be followed by the other States. What is the profit that the Bombay Government has made?

Shri Mahtab: So far as my information goes, they have made a profit of one crore. The selling of cloth in these shops has been very smooth and that has benefited the consumers.

Shri B. K. Das: To what extent has the production of handloom been reduced last year owing to the non-availability of yarn?

Shri Mahtab: The reduction in the handloom production can be seen from the amount of yarn produced. That has gone down from 82,000 bales per month to 62,000 bales per month and out of that 62,000, 15,000 bales per month were exported. Practically, handloom production must have been reduced by 50 per cent at least.

Prof. Banga: Is it a fact that the President of the Bombay Textile Mill Owners Association had given out a sort of a threat to the Government that they are not prepared to step up production any more unless such and such conditions stipulated by them are satisfied, and that otherwise, the Government would be free to take charge of the textile industry and run it? If so, what is it that the Government propose to do in order to step up production both on the yarn front as well as on the cloth front?

Shri Mahtab: That really is not the fact, and we should not be so sensitive

about criticism of the Government. This matter has been fully settled and steps are now being taken to step up production.

Mr. Speaker: I think I will go to the next question.

Shri Sidhva: Sir, only just one more question.

Mr. Speaker: All right, and that will be the last question.

Shri Sidhva: What is the stock of superfine cloth at present available in the country?

Shri Mahtab: It is difficult to know the stocks and I am quite sure that it is practically impossible to get the information from all the States on that particular point.

Shri Sidhva: Is not the Textile Commissioner of the Government of India...

Mr. Speaker: I go to the next question.

SHIP-BUILDING

1308. **Shri Sidhva:** Will the Minister of Commerce and Industry be pleased to state how many ships have been built so far on Government account and on Scindias' account in the ship-building yard at Vishakhapatnam?

The Minister of Commerce and Industry (Shri Mahtab): On Government account two ships have already been built and a third is under construction. Scindias have so far built on their account five ships.

Shri Sidhva: Sir, may I know whether the Scindias have asked Government for a loan for the purpose of constructing a berth for new ships, and what has happened to that loan? Has Government sanctioned that loan?

Shri Mahtab: The question of loan is under consideration. But an order for three more ships has been placed with them.

Shri Sidhva: Besides the Scindias did any other concern want orders to be placed and that was not accepted by the Vizag authorities, and if so, what was the reason?

Shri Mahtab: Some other companies have applied for loans, but I do not think any other company wanted to build ships themselves.

Shri Sidhva: Is it not a fact that the Western Steamship Company actually applied to the Government for permission to build certain ships, and did they also not apply for a loan?

Shri Mahtab: When the representatives of that particular company discussed the matter with me, so far

as I remember, they pressed a claim to purchase these ships at the subsidised rates. Their information was that the ships built by Scindias were going to the Scindias at the subsidised rate. This company wanted to purchase the ships at the subsidised rates. Also they wanted a loan. The whole question is being looked into.

Shri M. A. Ayyangar: In view of the fact that Government sanctions about two to two and a half crores of rupees as subsidies for this work, will Government consider the desirability of accepting the recommendation of the Estimates Committee that the Vizagapatam shipping yard may be purchased or acquired by Government?

Shri Mahtab: As a matter of fact only last year did the Government give a subsidy in the shape of the reduction of the prices, to the extent of Rs. 65 lakhs, and this year three ships are built and the same amount of subsidy will be paid. And so it is not that the subsidy is to the extent of one or two crores of rupees.

With regard to the other part of the question, a shipyard requires about Rs. 10 crores for its economic working and if Government takes over this Vizag yard, they will have to find out this sum of money for its economic working. Since Government are not in a position to invest this much of money, they are following the present procedure.

Prof. Banga: May I know what steps are being taken to build one or two dry docks at Vizagapatam so that you can build more ships?

Shri Mahtab: All this depends upon the availability of finance and the hon. Members will know the position when the Budget is placed before them.

Prof. K. T. Shah: Is this sum of Rs. 65 lakhs mentioned by the hon. Minister in respect of one ship or for all the three ships?

Shri Mahtab: It is for all the three ships together. It may be a little less or a little more, I am giving the figure off-hand, but I can let the hon. Member have the exact figure if he wants.

EVACUEE PROPERTY IN PAKISTAN

*1309. **Shri Sidhva:** (a) Will the Minister of Rehabilitation be pleased to state what stage the discussion with Pakistan Government of questions relating to Evacuee Property in Pakistan has reached?

(b) How many claims have been received and what is the total amount of properties involved?

(c) After the expiry of 31st October, 1950, have fresh claims been received and entertained?

(d) What steps did Government take to verify the claims received?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) The hon. Member's attention is drawn to the reply given by the Prime Minister on the 20th November, 1950, to Starred Question No. 136 standing in the name of Shri Kamath. The correspondence which has passed between the Prime Minister and Mr. Liaquat Ali Khan has already been placed on the Table of the House. Since then there has been no further development in this matter.

(b) About 4.5 lakhs claims have been received. Information regarding the total value of the properties involved is not yet available.

(c) Displaced persons, who, for good reasons, were unable to file their claims with the appropriate Registering Officers by the 31st October 1950, were allowed to submit their claims to the Joint Chief Claims Commissioner.

(d) The claims received are being classified according to the location of properties in Pakistan and are, thereafter, being verified by Claims Officers.

Shri Sidhva: What are the definite proposals of the Government with regard to these properties after the claims have been verified?

Shri A. P. Jain: The policy of the Government has been given out in the Communiqué published about five months back.

Shri Sidhva: But what I want to know is whether the displaced persons will get any amount from the sum realised as rent from the evacuee property? That has not been made clear, Sir.

Shri A. P. Jain: It is not a question of rent. Actually it is a question of recompensing the people as a result of the verification of the claims. Government have undertaken to recompensate those who have suffered losses.

Shri Sidhva: To what extent will they be compensated?

Shri A. P. Jain: It is not possible to say to what extent the displaced persons will be compensated. It will depend upon the value of the property left in Pakistan and the resources available at that time from different sources.

साका ब्रजित राम : जिन रिप्यूवीज ने
पहले अपने क्लेम दिये थे लेकिन वह कुछ

क्लेम अपने उस वक़्त देना भूल गए, क्या उन की तरफ़ से आप को कुछ सप्लीमेंटरी क्लेम वसूल हुए हैं।

[Lala Achint Ram: Have the Government received any supplementary claims from the refugees who forgot to submit some of their claims when they had first submitted them?]

श्री ए० पी० जैन : इस के बारे में तो मैं नहीं कह सकता, लेकिन बेशक अगर कोई ग़स्ती से अपनी किसी ज़ायदाद को लिखना भूल गया होगा तो उसको हक़ था कि मियाद के अन्दर वह अपने सप्लीमेंटरी क्लेम दे।

[Shri A. P. Jain: I cannot say definitely, but if any body forgot to claim any of his properties, he had the right to do so within the prescribed period.]

लाला अचिंत राम : क्या वह अब भी सप्लीमेंटरी क्लेम दे सकता है ?

[Lala Achint Ram: Can he still submit the supplementary claim?]

श्री ए० पी० जैन : अब तो तारीख़ ख़त्म हो गई।

[Shri A. P. Jain: The date has expired now.]

گھاتی جی - ایس - مسافر : کیا ماثلہ ملتوی صاحب کو کوئی اس قسم کی خبر ہے کہ پاکستان گورنمنٹ نے ہی سہیلگیری کلم رجسٹر کئے ہیں۔

[Giani G. S. Musafir: Has the hon. Minister any information to the effect that Government of Pakistan have also registered the supplementary claims?]

श्री ए० पी० जैन : मुझे तो ऐसी कोई ख़बर नहीं है।

[Shri A. P. Jain: I have no such information.]

Shri A. C. Guha: Is the property left in East Bengal also included in this arrangement?

Shri A. P. Jain: In the East, the Evacuee Property law is not applicable.

Sardar Hukam Singh: Do Government intend continuing the recovery of rent from the displaced persons even when their claims have been verified and the value has been found to be

ten or twenty times more than the value of the property that is now in their possession?

Shri A. P. Jain: So far as rent is concerned, different systems are being followed with regard to rural and other properties. In the case of rural property in the Punjab, actually the land revenue is being realised and the rest is being entered merely as a book entry. So far as urban property is concerned, something less than the fair concession rent is being realised. Very few claims have been verified so far so that the question of correlating the rent with the property left behind is not a practical proposition to-day.

Sardar Hukam Singh: When the claims have been verified and it is found that even interest counted at 4 per cent. much exceeds the rental value of the property that he has got in his possession, will that person be allowed remission of the rent for the property that he occupies?

Shri A. P. Jain: The question that the hon. Member has raised is a big matter of principle. It can be looked upon from two points of view, from the point of view of the individual refugee and from the point of refugees as a whole. So far, whatever income we receive from the evacuee property is being utilised in different manners for the benefit of the refugees as a whole. Possibly there is a conflict between the interests of the two and we have not formulated any policy so far. But if a policy in the interest of the individual is framed we shall have to adopt some kind of beneficial schemes for the refugees such as allowances to the widows, which are today being paid from the income received from evacuee property.

Thakur Krishna Singh: How many of these claims have been verified so far?

Shri A. P. Jain: I should think only a few thousands of such claims because the Claims Inspectors have been sent to the field only recently.

लाला अचिंत राम : क्या माननीय मंत्री जी यह बतलायेंगे, जैसा कि उन्होंने एववाइजरी कमिटी में फ़रमाया था कि जब से क्लेम के वैरीफ़िकेशन का काम आरम्भ होगा उस वक़्त से लेकर ६ महीने के अन्दर यह काम समाप्त हो जायगा, कि वह ६ महीने में वह काम समाप्त कर सकेंगे ?

[Lala Achint Ram: As he had said in the Advisory Committee that the work of verification of the claims would be completed within six months of

the commencement, will the hon. Minister be pleased to state whether he would really be able to complete this work within the six months' time?]

श्री ए० पी० जैन : मैं ने कभी एडवाइजरी कमेटी में यह नहीं कहा था कि ६ महीने में यह काम समाप्त हो जायगा। मेरी बराबर यह कोशिश रही है कि जितनी जल्दी से जल्दी यह काम समाप्त हो सके उस को समाप्त कर दिया जाय। जिस बक्त क्लेम्स आ रहे थे उसी बक्त हम ने वीरिफिकेशन के बारे में जो इन्तर्दाई बातें हो सकती थीं उन के ऊपर शौर किया और क्लेम्स खत्म होने से पहले ही हम ने क्लेम्स आफिस्टर का एपाइंटमेंट भी कर दिया था।

[Shri A. P. Jain: I had never said in the Advisory Committee that this work would be completed within six months. It has been my constant endeavour to finish this work within the earliest possible time. In fact we examined the preliminary things relating to the verification of claims even when the claims were being received and we had appointed the Claims Officers before the last date for the submission of the claims.]

Shri B. E. Bhagat: May I know whether legislation regarding evacuee property in Eastern Pakistan (Bengal and Assam) as agreed upon in the Chief Secretaries Conference has been undertaken?

Shri A. P. Jain: As the hon. Member is aware an Ordinance has been passed but it is of a very different nature from the evacuee law prevailing in the West.

Shri Sidhva: The hon. Minister stated that from the rents realised from evacuee properties many other schemes are being financed. Is it not a fact that the Government had stated that these realisations will be earmarked for payment of evacuee property claims when occasion arose? If so, for what purpose are the rents utilised now?

Shri A. P. Jain: As I have stated, one of the schemes for which these rents are being utilised is the payment of allowances to widows. As to what will be ultimately done with the pool created from the realisation of rents will depend upon the time when the final disposition of the evacuee properties takes place.

TEA (EXPORTS)

*1310. Dr. Ram Subhag Singh: (a) Will the Minister of Commerce and Industry be pleased to state whether it is a fact that tea shipments from India to both the United States of America and Canada have shown a decline?

(b) If so, what are the reasons therefor?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Over a period of the last few months, there has been a slight decline in shipments of Indian tea to the United States of America and Canada, compared with exports during the same period of the year 1949. However, taking the figures for the calendar years, exports for 1950 have kept up to the 1949 levels. In the circumstances, it would be premature to attach any significance to the recent decline in exports. In January 1951, American buyers have again been active at the Calcutta auctions.

(b) Does not arise.

Dr. Ram Subhag Singh: Is it a fact that this decline has been due to the inferior packing of Indian tea?

Shri Karmarkar: No. Our information is that it is a seasonal decline and in the proper season the orders for tea rise.

Dr. Ram Subhag Singh: What is the percentage of the decline compared to the 1949 exports?

Shri Karmarkar: I will make that clear. From 1st January to the 30th November the comparable figures for the U.S.A. are 30.7 million lbs. in 1949 and 32.7 million in 1950. Taking the months from the 1st of April to the 31st December the comparable figures for the U.S.A. are 23 million lbs. and odd for 1949 and 23 million lbs. and odd for 1950. For Canada for the period from 1st April to 31st December 18,834,000 for 1949 and for 1950 the figure is 15,000,854.

Dr. Ram Subhag Singh: Is it a fact that Indian tea is selling 10 per cent. less in U.S.A. and Canada compared to Ceylon tea?

Shri Karmarkar: Our information is that in parts of the year Indian tea is discounted by two annas per pound as compared with Ceylon tea.

Dr. Ram Subhag Singh: What is the reason for this?

Shri Karmarkar: One of the reasons for it appears to be that American and Canadian buyers favour the Indian second flush-tea and the better

type but these represent only a small percentage of the crop. At other times Ceylon teas are preferred and during non-season periods Indian tea is discounted by two annas per pound.

Shrimati Renuka Ray: Have any complaints reached the Ministry that the inferior quality packing of Indian tea has had an adverse effect on its sales and if so, what steps are being taken to see that the quality of the packing is improved?

Shri Karmarkar: I shall look into the matter as to whether any complaints have been received and if it is a fact, due action will be taken.

Shri Gantam: Are Government aware that a large quantity of Indian tea imported in U. K. is again re-exported to U.S.A.? If so, what steps are Government taking to have direct dealings with the U.S.A.?

Shri Karmarkar: It does not arise out of the question. But if it does, I shall require notice.

Shri Jhunjhuwala: Is it a fact that the quality of Indian tea is deteriorating and because of this deterioration the demand is getting less?

Shri Karmarkar: There was a complaint some time past but matters have now very much improved.

Dr. Ram Subhag Singh: May I know whether Indian tea chests stand comparison with the Finish plywood chests used by Ceylon producers?

Shri Karmarkar: Our information is that Ceylon chests are a little better than Indian tea chests.

Shri Sidhva rose

Mr. Speaker: Next question.

PURCHASE OF TEA AT CALCUTTA

*1311. **Dr. Ram Subhag Singh:** Will the Minister of Commerce and Industry be pleased to state whether it is a fact that importers are free from 1st January, 1951, to buy tea on private account at the Calcutta auctions?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): It has always been open for anyone to buy tea on private account at the Calcutta auctions which are conducted by the trade and not by the Government. The export auctions which were temporarily closed due to the bulk purchase of tea by the United Kingdom Government, were resumed in the beginning of 1947 and have since then continued to be held. I should add for the information of the hon. Member that even after 1947 till

this year the bulk purchase scheme was continued and to that extent private purchase of tea at Calcutta was very nominal.

Dr. Ram Subhag Singh: Why have importers been permitted to buy tea on private account, a privilege which had been denied before?

Shri Karmarkar: The reason for that, as I have said, was that during the period of the war there was what was called bulk purchase scheme and it went on from the latter half of 1942 up to 1946. As from 1947, that is from 1st January, 1947 there was no ban on private export of tea. The arrangement for bulk purchase expired from 1951 onwards. As long as the arrangement of bulk purchase continued there was very little scope for private purchase of tea in the Calcutta auctions. But from 1951 onwards the auctions in Calcutta will be held and they will be open for private purchase and sale.

Shri Raj Bahadur: May I know whether it is a fact that after the purchase of tea by U. K. through the bulk purchase system the U. K. re-exported the tea to various countries and collected thus the entire middleman's profit?

Shri Karmarkar: Not to our information. If that is so we shall try to find out, at least as a matter of research.

Shri A. C. Guha: Will the bulk purchase system now be renewed or will it be discontinued?

Shri Karmarkar: That is discontinued for the time being, as from this year onwards.

Shri Raj Bahadur: What steps have been taken by Government to capture the market for tea in Europe which was formerly held by the U.K.?

Shri Karmarkar: I am not able to appreciate that question. It was not a question of capturing a market; it is a question of expansion of the trade.

REHABILITATION

*1312. **Dr. Ram Subhag Singh:** Will the Minister of Rehabilitation be pleased to lay on the Table of the House a statement showing:

(a) the number of West and East Pakistan displaced persons who have been rehabilitated in India State-wise; and

(b) the number of those displaced persons who are still in need of being rehabilitated?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) and (b). This question is difficult to answer in precise terms. It is not possible to form a correct estimate of the number of persons rehabilitated because (i) the level upto which the economic recovery of the individual should have taken place before he can be said to be 'rehabilitated' is not easy to define and so far, no such definition has been suggested or worked out; (ii) a large number of persons have 'rehabilitated' themselves by their own efforts and in the absence of an economic census of displaced persons, their number cannot be easily ascertained; and (iii) even for those who have received direct governmental assistance, there is no organization in the States to follow up the individual cases.

Dr. Ram Subhag Singh: May I know whether there is any record of the persons who have not yet been rehabilitated?

Shri A. P. Jain: I think, Sir, I have fully answered that question already.

Dr. Ram Subhag Singh: The reply was that there was no record of persons who have been rehabilitated. Therefore, I want to know whether there is any record of displaced persons who have not yet been rehabilitated.

Shri A. P. Jain: The idea of my hon friend appears to be that the refugee and his rehabilitation is something like a piece of cloth or any other inanimate object which can be measured by a foot-scale or a yard-scale. Actually I consider it to be more of a psychological question, and a person who feels that he is living well, that he can educate his children, that he is a citizen of India like any other person, well, I treat him as rehabilitated. Unfortunately, no psychologist has yet been able to develop some kind of a scale by which he can measure the psychological mental rehabilitation.

Dr. Ram Subhag Singh: Sir, it was a very simple question. The question was: how many of the displaced persons have been provided shelter, occupation etc.

Mr. Speaker: I don't think it is necessary to discuss it further.

Shri Syamandan Sahays: Is it not a fact that in the recent very well got up bulletin of the Rehabilitation Ministry it has been definitely stated that 99 per cent. of the refugees have been rehabilitated and only one per cent. is left to be rehabilitated?

Shri A. P. Jain: Subject to the limitation that I have stated before the House and subject to the interpretation of the term "rehabilitation" as I have stated before the House.

CLOTH

*1313. **Pandit M. B. Bhargava:** Will the Minister of Commerce and Industry be pleased to state:

(a) the total yardage and value of superfine, fine and coarse cloth manufactured in India during the years 1948, 1949 and 1950;

(b) the total yardage and value of textile cloth of the three qualities exported from India to various countries;

(c) what percentage of this was exported to hard and soft currency areas; and

(d) the stock and manufactured cloth at the commencement of each year during these three years and the carry-over of textile stocks at the beginning of the year 1951?

The Minister of Commerce and Industry (Shri Mahtab): (a) to (d). The information is placed on the Table of the House. [See Appendix XI, annexure No. 11]. I may draw the attention of hon. Members to the last item in the table showing the figures of stock with the mills.

Pandit M. B. Bhargava: May I know whether the export of cloth is on the increase or on the decrease?

Shri Mahtab: It is certainly on the increase and at present we are taking steps to decrease it.

Shri Soodhi: Is it not a fact that on account of a lacuna in the Government communication issued by the Textile Commissioner a lot of coarse and medium cloth has been exported which was not meant to be exported?

Shri Mahtab: It was not really a lacuna. The Government notification used the expression which was in use since 1943, "fine and superfine", but it was interpreted and things were done in that way by making a distinction between warp and woof. Under that pretext certain exports were made but that has been corrected.

Shri Shiv Charam Lak: Is it not a fact that the quota of supply to the different States has been reduced by 50 per cent?

Shri Mahtab: Quotas have been reduced because of the non-availability of cloth. The quota is fixed according as the production goes.

Shri Shiv Charan Lal: Has the quota for Uttar Pradesh been reduced to one-third only?

Shri Mahtab: The exact figures are not with me but no discrimination has been made between the States. Reduction, if there has been any, has been done on a uniform scale.

Shri Shiv Charan Lal: Has the State made any representation that the cloth supplied to that State is quite insufficient for the population of the State?

Shri Mahtab: All the State Governments have not only represented but they are bitterly complaining against it.

Shri Rathnaswamy: Has it been the policy of the Government to export only surplus cloth after meeting the demand of the local market?

Shri Mahtab: That is not possible to do because it depends on various other considerations also, but so far as the local needs are concerned we are taking steps to meet them as far as possible.

Shri Syamaandan Sahaya: Are Government aware that *dhoties* and *saris* have completely gone underground and that they are not available in many parts of the country?

Shri Mahtab: *Dhoties* and *saris* were really in great demand and therefore recently an order has been issued calling upon the mills to produce a certain percentage of *dhoties* and *saris*.

CLOTH

*1314. **Pandit M. B. Bhargava:** Will the Minister of Commerce and Industry be pleased to state:

(a) the ceiling and retail prices at which the superfine, fine and coarse cloth was being sold during the years 1948, 1949 and 1950;

(b) whether control on the distribution of the manufactured cloth was relaxed in the years 1949 and 1950 and if so, in what manner;

(c) what percentage of the cloth manufactured during the years 1948, 1949 and 1950 were allowed to be sold in the free markets;

(d) whether any complaint has been made to Government that there is a good deal of black-marketing in such stocks; and

(e) if so, what steps have been taken by Government to minimise and eliminate the chances of abuse?

The Minister of Commerce and Industry (Shri Mahtab): (a) A statement is placed on the Table of the House. [See Appendix XI, annexure No. 12.]

(b) and (c). Yes. In September 1948, Mills were permitted to sell one-third of their monthly production of cloth to dealers of their choice with a view to enabling them to liquidate accumulations. In August 1950 the concession was modified as follows:

1. Sales for export will be the first charge on the one third production; consequently free sales will be restricted to the portion of the one third production not drawn for export.

2. If sales for export from a mill exceed one third portion in any month that mill cannot avail itself of the free sale concession during that month.

(d) and (e). Yes. At a Conference held in November 1950, State Representatives pointed out that black-marketing was going on in respect of the free sale cloth and recommended the withdrawal of this concession. The matter is now under the active consideration of Government.

Pandit M. B. Bhargava: Is it a fact that most of the cloth that was reserved for the free market was sold outside India and that that was the reason for the non-availability of cloth in the market?

Shri Mahtab: The shortage arose because the one-third which was to be sold in India was not available in the market.

Shri Frank Anthony: Is it a fact that the only agency which operated as a check against black-marketing by big mill-owners, namely the Central Enforcement Directorate, Government have decided to abolish from this month?

Mr. Speaker: Order, order. I don't think it arises.

Shri Tyagi: After the recommendation of this conference to stop private sales, what are the points towards which the Government's attention is being directed and which they are considering as a result of this recommendation?

Mr. Speaker: Which recommendation?

Shri Tyagi: The recommendation to stop giving cloth to the mills for private sale. The hon. Minister said the recommendation was under consideration. I want to know whether there are any other points like this which Government are considering, and also why this point has not been accepted so far?

Shri Mahtab: Whenever we use the expression "free market" it really means that the mills are authorised to sell their goods through their own agencies, whereas for the other quota the goods are sold through the nominees of the States. The prices in both the cases are controlled. Therefore "free market" does not mean that mills are permitted to sell at any price they like. The point is that irregular distribution—I would not say "blackmarketing"—takes place not only with regard to the one-third but also with regard to the two-thirds. Therefore, some step has to be taken to see that the cloth allotted to States is regularly distributed. These things are under consideration in consultation with the State Governments. The State Governments will be advised to tighten up their administrative machinery for distribution. Because the irregular distribution is not confined only to this one-third but spreads to the two-thirds also, therefore, the problem is not a very simple one as it appears on the surface.

WRITTEN ANSWERS TO QUESTIONS

INTENDING EVACUEES

*1315. **Shri B. K. Das:** Will the Minister of Rehabilitation be pleased to state:

(a) the number of persons declared intending evacuees;

(b) the number of houses and other properties of such evacuees taken under custody; and

(c) the manner in which those are being dealt with?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) The information is not readily available.

(b) The approximate number of urban evacuee property as on 30-9-1950 is:—

Residential houses.	2,62,452
Business premises.	33,518
Industrial premises.	1,972
	2,97,942

(c) Except where any property is requisitioned for Government purposes or is in possession of old tenants, evacuee property, is generally allotted by the Custodians to displaced persons.

ABDUCTED WOMEN

*1316. **Shri Balmiki:** Will the Prime Minister be pleased to state:

(a) how many of the abducted women recovered from Pakistan up to January, 1951, have been restored to

their families or other near relatives; and

(b) how many are still left unsettled?

The Minister of States, Transport and Railways (Shri Gopalaswami):

(a) 7,052.

(b) 123.

DISPLACED HARIJANS

*1317. **Shri Balmiki:** (a) Will the Minister of Rehabilitation be pleased to state the number of Harijan bastees (colonies) where Harijan displaced persons have made unauthorised occupation?

(b) Is it a fact that coercion and physical force were used to eject them from their unauthorised constructions?

(c) If so, what steps do Government propose to take to provide alternative accommodation to them?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) to (c). This question will be answered by my hon. Colleague, the Health Minister in due course.

NEWSPRINT

*1318. **Shri Deshbandhu Gupta:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether Government are aware of the newsprint crisis which India is facing;

(b) if so, whether any representation has been made at Governmental level to newsprint-producing countries, particularly Canada, to allocate some newsprint to India for 1951 and for subsequent years and if so, with what result;

(c) whether it is a fact that other Commonwealth countries are getting about one lac tons of newsprint through the United Kingdom in 1951; and

(d) if so, whether any representation has been made by Government to the U.K. to allocate a part of this pooled quantity to India?

The Minister of Commerce and Industry (Shri Mahtab): (a) Yes.

(b) A statement is laid on the table of the House. [See Appendix XI, annexure No. 18.]

(c) Yes.

(d) Government have asked the High Commissioner for India in London to move the U.K. Government to allot to India at least 15,000 tons of newsprint out of the one lac tons allocated by them for export to Commonwealth countries. The final decision of the U.K. Government is awaited.

SIKHS AND HINDUS FROM PAKISTAN-HELD AREAS OF KASHMIR

*1319. **Shri R. Velayudhan:** Will the Prime Minister be pleased to state:

(a) how many displaced persons both Hindus and Sikhs were repatriated from Pakistan-held areas of Kashmir; and

(b) the number of abducted girls still in this area to be repatriated?

The Minister of States, Transport and Railways (Shri Gopaldaswami): (a) From October 1948 to the middle of January 1951, 5,320 Hindu and Sikh Displaced persons were repatriated to India from the so-called 'Azad' Kashmir area. Prior to October 1948 a separate record of evacuees from that area was not kept.

(b) The raiders abducted women (including Muslim women) on a large scale from the areas raided by them in the Jammu and Kashmir State. I regret it is not possible to state the exact or even approximate number of abducted women in these areas.

IRON AND STEEL IN DISPOSALS

*1320. **Shri R. Velayudhan:** (a) Will the Minister of Works, Production and Supply be pleased to state the quantity of iron and steel remaining with the Disposals at present?

(b) When will the materials be disposed of completely?

The Minister of Works, Production and Supply (Shri Gadgil): (a) and (b). The reply already given for Starred Question No. 1305 applies to this Question also.

APPOINTMENT OF GERMAN CONSUL-GENERAL IN INDIA

*1321. **Shri B. R. Bhagat:** Will the Prime Minister be pleased to state:

(a) whether West German Government have approached the Government of India for the appointment of a German Consul-General in India; and

(b) if so, whether the appointment is likely to be made and if so, when?

The Deputy Minister of External Affairs (Dr. Keskar): (a) In October 1950, on an enquiry by the Allied High Commission for Germany we replied that we would welcome the establishment of such a Consulate-General.

(b) The appointment will most probably be made soon but the exact date depends on the decision of the West German Government.

KHAIRWAS IN VINDHYA PRADESH

*1322. **Shri Dwivedi:** (a) Will the Minister of Labour be pleased to state the minimum and maximum daily wages being earned by Khairwas (cashew manufacturers) in Vindhya Pradesh in the case of (i) a male, (ii) female, or (iii) a child wage earner?

(b) How many hours in a day are they required to work in a week?

(c) What facilities, if any, are given by contractors?

(d) What is the manufacturing cost of cashew, what is the selling price and what is the margin of profit which goes to the contractors of cashew forests in Vindhya Pradesh?

(e) What is the total number of Khairwas including women and children?

(f) Is there any arrangement for the education of their children?

(g) Into which of the following classes or categories will they be enumerated during the forthcoming census—

(i) backward class;

(ii) scheduled caste; and

(iii) scheduled tribe?

The Minister of Labour (Shri Jagjivan Ram): (a) Employment is not on the basis of individuals. Wages are paid on the basis of out-turn. An average family consisting of a husband, wife and one or two children earn about two Rupees a day.

(b) This is not fixed as the Khairwas are paid on the out-turn of their work.

(c) The contractors advance money to the Khairwas ranging from Rs. 100 to Rs. 300 per family and provide free temporary sheds. Supply of clothing and ration is also arranged by the contractors and charged at the time of the settlement of accounts.

(d) It is regretted that the manufacturing cost is not available but Government understand that the contractors make a profit of more than Rs. 40 per maund.

(e) Approximately 1,500 to 2,000 families of Khairwas are believed to be working in the State of Vindhya Pradesh. In addition a considerable number of Khairwas go out every year to Uttar Pradesh, Madhya Pradesh, Madhya Bharat and Rajasthan for their business pursuits.

(f) There are no special arrangements for the purpose.

(g) The list of Scheduled castes and Scheduled tribes in Part C States have

not yet been finalised. It is therefore not possible to say in what category Khairwas will come.

PAYMENT OF DEBTS OF EVACUEES

*1323. **Pandit Balkrishna Sharma:**

(a) Will the Minister of Rehabilitation be pleased to state whether it is a fact that Section 10(2) (m) of Act XXXI of 1950 provides for payment of debts to the creditors of the Evacuees by the Custodian?

(b) Is it a fact that the Custodian was empowered, for the purposes of clearance of debts on the evacuees, to seek permission to sell any particular property under item 25 of the third meeting of the Inter-Dominion conference on the 21st, 22nd and 23rd April, 1949?

(c) Have Government experienced any difficulty in the working of this procedure of payment of debts?

(d) If so, what action do Government contemplate to take to remove such a difficulty?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) These sections merely enable the Custodian to pay debts of an evacuee.

(b) No.

(c) Does not arise.

(d) Does not arise.

TRADE TREATY WITH IRAN

*1324. **Giani G. S. Musafir:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether some negotiations are taking place for the conclusion of a trade treaty between India and Iran; and

(b) if the answer to part (a) above be in the affirmative, the stage at which the negotiations are?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes, Sir.

(b) A draft of the proposed trade treaty is being examined.

TIBETANS ENTERING INDIA

*1325. **Shri A. B. Gurung:** Will the Prime Minister be pleased to state the number of Tibetans who entered into India since the Chinese invasion of Tibet?

The Deputy Minister of External Affairs (Dr. Keskar): Under the Passport Rules, Tibetans could enter India without any passport, visa or entry permit. Similar facilities were enjoyed by Indians entering Tibet. Hence,

no record was kept of the considerable number of Tibetans who entered India during the last quarter of 1950. On the 26th December, 1950, orders were issued requiring Tibetans to obtain permits for entry and stay in India.

DEWAN'S ADVISORY COUNCIL IN SIKKIM

*1326. **Shri A. B. Gurung:** Will the Prime Minister be pleased to state whether it is a fact that the representatives of the Sikkim State Congress have resigned from the Dewan's Advisory Council and if so, what are the reasons?

The Deputy Minister of External Affairs (Dr. Keskar): The representatives of the Sikkim State Congress on the Advisory Council resigned in October, 1950, because they were not satisfied with the functioning of the Council and considered it to be ineffective. Subsequently, they withdrew their resignations.

STEEL

*1327. **Dr. Deshmukh:** Will the Minister of Commerce and Industry be pleased to state whether steel is now available in the international market and if not, what steps are being taken to meet the demand of Indian industries?

The Minister of Commerce and Industry (Shri Mahtab): Yes, in limited quantities but at exorbitant prices. The Governments of the U.S.A. and the U. K. have been approached to assist us in permitting exports of sufficient quantities at reasonable prices.

PETROL CONSUMPTION

*1328. **Dr. Deshmukh:** Will the Minister of Works, Production and Supply be pleased to state:

(a) the monthly petrol consumption in India before lifting of control and after; and

(b) the percentage of increase?

The Minister of Works, Production and Supply (Shri Gadgil): (a) The average monthly consumption of Motor Spirit for the six months immediately preceding the commencement of derationing, which was done in stages from July 1950, was 15,232,676 gallons. Control was lifted by the end of October 1950, and the average consumption for the months of November and December 1950 was 18,212,315 gallons.

(b) The percentage of increase, as shown by the above figures is 19.5. It

is however not safe to go by the figures for November and December 1950 only, as the period is too short, and the consumption during winter months is usually higher than during the rest of the year.

PURCHASES IN FOREIGN COUNTRIES

*1329. **Seth Govind Das:** Will the Minister of Works, Production and Supply be pleased to state:

(a) the value of food, capital goods etc., purchased in 1949 and 1950 through (i) foreign Governments and (ii) firms in foreign countries by our Embassies; and

(b) whether any tenders were called for from foreign firms?

The Minister of Works, Production and Supply (Shri Gadgil): (a) and (b). The information is being collected and will be laid on the Table in due course.

SPECULATION IN SALT

*1330. **Seth Govind Das:** (a) Will the Minister of Works, Production and Supply be pleased to state whether Government are aware that, due to the Korean war, there has been speculation and hoarding in salt resulting in distress to the people?

(b) What steps, if any, are being taken to check rise in price?

The Minister of Works, Production and Supply (Shri Gadgil): (a) Government are not aware of any such speculation and hoarding in salt.

(b) A careful watch is being kept on the situation.

RUBBER GOODS (IMPORT)

*1331. **Shri J. N. Hazarika:** Will the Minister of Commerce and Industry be pleased to state:

(a) what are the countries from which rubber goods had been imported during the year 1950-51;

(b) the quantities of rubber goods—including rubber belts and belt-fasteners—imported from Japan generally and under special permit system in the year of 1950-51; and

(c) whether the import of rubber goods would be continued and if no import has so far been made in 1950-51 whether it will be permitted in 1951-52?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Rubber goods have been imported

from the following countries during the year 1950-51:

- (1) U.K.,
- (2) Straits Settlements,
- (3) Federation of Malaya,
- (4) Singapore,
- (5) U.S.A.,
- (6) Ceylon,
- (7) France,
- (8) Italy,
- (9) Canada,
- (10) Pakistan,
- (11) Austria,
- (12) Portugal,
- (13) Czechoslovakia,
- (14) Zanzibar,
- (15) Pemba,
- (16) Denmark.

(b) No rubber goods have been imported from Japan during the year 1950-51. As belt and belt fasteners are not specifically shown in the Foreign Sea and Air Borne Trade Accounts, so the information regarding import of these items from Japan is not available. Belts and belt fasteners are not classified under the category of rubber goods.

(c) The policy pursued in respect of import of various items under the heading "Rubber goods" during the year 1950 has been, more or less, carried on to the current licensing period. The policies regarding import of different items are at present being framed every six months after examining the country's foreign exchange position and it will be premature to make any statement regarding the import policy that will be pursued during the coming licensing periods.

IRON (IMPORT)

*1332. **Shri J. N. Hazarika:** (a) Will the Minister of Commerce and Industry be pleased to state what is the target of iron import for 1951-52?

(b) What is the total estimated output of iron and steel of the Tata Iron and Steel Company, the Steel Corporation of Bengal and Mysore Iron and Steel Works for the year 1951-52?

The Minister of Commerce and Industry (Shri Mahtab): (a) 500,000 tons.

(b) 810,000 tons of finished steel.

DAMAGE CHARGES FOR QUARTERS FROM DISPLACED GOVERNMENT SERVANTS

*1333. **Giani G. S. Musafir:** Will the Minister of Works, Production and Supply be pleased to state whether it is a fact that the displaced Government employees, who shared housing accommodation with other Government employees are, after the cancellation of the allotment of the accommodation to the original allottees, being

charged damage charges for the accommodation?

The Minister of Works, Production and Supply (Shri Gadgil): Yes.

HOUSES FOR DISPLACED PERSONS

*1334. **Giani G. S. Musafir:** Will the Minister of Rehabilitation be pleased to state:

(a) the financial facilities which Government are rendering to displaced persons for constructing or buying houses in or out of the various Government schemes in Delhi State; and

(b) what are the provisions for accommodating such displaced persons as cannot buy or hire the houses?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) The following facilities are made available for constructing or buying houses to displaced persons in Delhi:—

(i) Plots measuring 30' x 60' are leased out on nominal rent.

(ii) Plots measuring 800 sq. yds. or more, are sold out to refugees only by tender subject to a reserve price of actual cost to Government.

(iii) Building material is supplied at control rates.

(iv) Houses at cost price are sold for cash, and

(v) Certain houses are given to the displaced persons on instalment basis.

(b) Obviously the hon. Member has destitutes in mind and Government are maintaining a large number of homes for the destitutes, where such persons can be accommodated.

MEDICAL AID FOR MINE LABOURERS

*1335. **Shri Ramraj Jajwari:** (a) Will the Minister of Labour be pleased to state what are the arrangements for rendering medical aid to the labour employed in mines and quarries employing over one thousand workers?

(b) Are similar provisions made in Government owned mines also?

The Minister of Labour (Shri Jagjivan Ram): (a) According to the Rules framed under the Indian Mines Act, 1923, the owners of mines and quarries maintain ambulance and medical appliances and employ persons trained in first-aid. The inspection staff of the Mines Department ensure in the course of their inspection of the mines and quarries that these statutory provisions are complied with. In accordance with the bye-laws framed by the Jharia Mines Board of Health and the Asansol Mines Board of Health,

medical officers are maintained at all mines in the Jharia and Raniganj coalfields. In addition to what is being done by the employers, the Coal Mines Labour Welfare Fund and the Mica Mines Labour Welfare Fund have opened a number of hospitals and dispensaries for the exclusive benefit of coal miners, mica miners and their families. The Coal Mines Labour Welfare Fund has also agreed to the payment of a subsidy equal to the amount spent by colliery owners for the maintenance of dispensaries subject to certain maximum limit.

(b) Yes.

RELIEF AND REHABILITATION (EXPENDITURE)

*1336. **Shri Kishorimohan Tripathi:** Will the Minister of Rehabilitation be pleased to state what part of the expenditure so far incurred on relief and rehabilitation of displaced persons, if any, is chargeable to revenues of the various States?

The Minister of State for Rehabilitation (Shri A. P. Jain): In some cases the cost of the staff at the head-quarter is met by the Central and State Governments in the proportion of fifty-fifty. Besides 50 per cent. of the loss on loans as ultimately ascertained shall have to be borne by the State Governments.

AGRICULTURAL LABOUR

*1337. **Shri Venkataraman:** Will the Minister of Labour be pleased to state:

(a) the time by which the Agricultural Labour Enquiry is expected to be concluded; and

(b) whether Government propose to notify the minimum wages in Agriculture or appoint a Board for the determination of the same?

The Minister of Labour (Shri Jagjivan Ram): (a) According to present programme, the field work is expected to be concluded during the first half of year 1951.

(b) It is for the appropriate Government—the State Government in this case—to decide the procedure to be adopted by them for fixing minimum rates of wages in agriculture.

CENTRAL TEA BOARD

*1338. **Shri Venkataraman:** (a) Will the Minister of Commerce and Industry be pleased to state whether there is any representative of the Government of India on the Executive Committee of the Central Tea Board?

(b) If so, how many meetings of the Executive Committee did he attend from June 1950 to December 1950?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) There is, at present, no representative of the Government of India on the Executive Committee of the Central Tea Board.

(b) Does not arise.

CLOTH PRICES

*1339. Shri B. E. Bhagat: Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that cloth prices in India have been increased;

(b) if so, by how much;

(c) whether it is a fact that the price of medium cloth has not been increased;

(d) if so, the reasons therefor; and

(e) how far this increase has affected yarn prices?

The Minister of Commerce and Industry (Shri Mahtab): (a) Yes, Sir.

(b) By about 15 per cent. in the case of coarse cloth, 5 per cent. in the case of medium cloth, 15 per cent. in the case of fine, and 6 per cent. in the case of superfine.

(c) Prices of medium cloth have also been increased.

(d) Does not arise.

(e) The increase in yarn prices will be on the same basis as stated in reply to part (b) of the question depending upon the counts of yarn spun.

TRADE WITH HUNGARY

*1340. Shri Sivaprakasam: Will the Minister of Commerce and Industry be pleased to state:

(a) whether any new arrangements have been made between India and Hungary for trade with each other;

(b) if so, for what quantities and for what commodities; and

(c) what commodities are intended to be imported from Hungary?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) to (c). Trade letters were exchanged between the Governments of India and Hungary on the 20th January 1951. In these letters provision has been made to the effect that applications for licences for import of goods from Hungary into India would be treated as favourably as applications for import from any other country of the soft currency group in accordance with the licensing procedure in force from time to time, saving any exceptional commitments in any particular trade agreement. As regards imports

into and exports from Hungary, that country has agreed to treat India as a trade agreement country for reasonable quantities of the commodities mentioned in the Schedules attached to the letters. No quantities have been specified in the Schedules. A copy of the letters and the Schedules referred to has been placed in the Library of the House.

EX-MILL PRICE OF YARN

*1341. Shri Deogirikar: (a) Will the Minister of Commerce and Industry be pleased to state whether textile mills started during or after the war used to get 10 per cent. extra on the ex-mill price fixed for yarn?

(b) How many such mills have come into existence?

(c) Has this 10 per cent. higher rate been recently stopped?

(d) How many mills have been closed as a result of this reduction in the higher rates?

The Minister of Commerce and Industry (Shri Mahtab): (a) and (b). No such concession was given to the textile mills which came into production during or after the war. The concession at rates varying from 3 to 12 per cent. over ex-mill prices was, however, allowed to certain uneconomic mills in Bombay and some other States.

(c) The rate of 10 per cent. which was allowed by the Bombay Government to certain mills in the Bombay State was reduced to 6½ per cent. by the Bombay Government with a view to meeting out equitable treatment to all such uneconomic mills.

(d) One mill has closed down with effect from 1st January 1951 and two others have given notices of closure with effect from the 1st February 1951 in the Bombay State. The Bombay Government have since decided that the concession of 10 per cent. margin to these mills be continued for another six months. It is hoped that this concession will enable the mills to remain in production.

PRICE OF PETROL AND KEROSENE

*1342. Shri R. K. Chaudhuri: Will the Minister of Works, Production and Supply be pleased to state:

(a) whether it is a fact that the price of petrol and kerosene, produced in Digboi in Assam by A.O.C. and B.O.C., is higher per gallon in Assam than it is in the other States of India;

(b) if so, what is the reason therefor; and

(c) whether Government have taken any steps to rationalise the price of petrol and kerosene in Assam?

The Minister of Works, Production and Supply (Shri Gadgil): (a) No, Sir.

(b) Does not arise.

(c) Prices of Petrol and Kerosene in Assam as well as in other States of India are fixed on the same basic principle. Government have agreed with the Oil Companies that for Government indentors the price at Digboi of indigenous oil produced in Assam, including Motor Spirit and Kerosene, should be the same as the f.o.r. price at Budge Budge. The same prices are also charged by the oil companies from private consumers. At present there is no price control over Petrol but the State Governments are controlling the selling price of Kerosene.

PRODUCTION COST OF PIG IRON

*1343. **Shri Rathnaswan** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that an enquiry is to be conducted by the Tariff Board into the cost of production of pig-iron;

(b) if so, when is this enquiry to come off; and

(c) whether this enquiry will cover also the question of integration of the Indian Iron and Steel Company and the Steel Corporation of Bengal?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes.

(b) The inquiry is in progress.

(c) Yes.

DEATH SENTENCE TO INDIAN IN MALAYA

*1344. **Shri Rathnaswamy:** (a) Will the Prime Minister be pleased to state whether it is a fact that an Indian rubber tapper, Karuppayah, has been sentenced to death in Malaya?

(b) If so, what are the charges on which he has been awarded death sentence?

The Deputy Minister of External Affairs (Dr. Kestkar): (a) Yes.

(b) The charges are:

(i) that he demanded supplies from certain persons, in circumstances which indicated that they were intended for persons intending to act in a manner prejudicial to the maintenance of public order, and

(ii) that he aided, abetted and consorted with so-called "bandits".

These offences are punishable with death under the provisions of the Emergency Regulations which are now in force in Malaya.

PERSONS TRAINED AT TRAINING CENTRES

*1345. **Lala Achint Ram:** (a) Will the Minister of Rehabilitation be pleased to state the number of displaced persons who received training at the various training centres by the end of December 1950 and how many completed their training by that time?

(b) How many of these persons who had completed their training found gainful occupation through (i) Government agency; and (ii) their own effort?

(c) How many are still unemployed?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) (i). Number under training at the end of December 1950—1,632.

(ii) Number completed training up to the end of December 1950—5,760.

The above information relates to Centres under the Ministry of Rehabilitation and excludes those under State Government and the Ministry of Labour.

(b) and (c). 332 trainees from Nilokheri and Arab-ki-Sarai Centres have secured gainful occupation through Government agency. Other information asked for is not readily available.

CENTRAL ENFORCEMENT DEPARTMENT

*1346. **Kaka Bhagwant Roy:** (a) Will the Minister of Commerce and Industry be pleased to state what is the function of the Central Enforcement Department?

(b) How many offices have they got all over India?

(c) How many cases has this Department investigated during the last two years?

The Minister of Commerce and Industry (Shri Mubtab): (a) The function of the Central Enforcement Directorate is to enforce control orders regarding Cotton Textiles and Iron and Steel, and to detect contraventions in respect of these control orders.

(b) Seven.

(c) 1075 cases.

Friday, 9th February, 1951

Volume VIII

No. 1-20



PARLIAMENTARY DEBATES

PARLIAMENT OF INDIA

OFFICIAL REPORT

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

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PARLIAMENT OF INDIA

Friday, 9th February, 1951

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

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

PAPER LAID ON THE TABLE

SECOND REPORT OF THE ESTIMATES COMMITTEE ON REORGANISATION OF THE SECRETARIAT AND DEPARTMENTS OF GOVERNMENT OF INDIA

Shri M. A. Ayyangar (Madras): I beg to lay on the Table the second Report of the Estimates Committee relating to the re-organisation of the Secretariat and Departments of the Government of India. [Placed in Library. See No. IV.O.1(97).]

PROHIBITION OF MANUFACTURE AND IMPORT OF HYDROGENATED VEGETABLE OILS BILL

PRESENTATION OF REPORT OF COMMITTEE ON PETITIONS

Shri Deshbandhu Gupta (Delhi): I beg to present the report of the Committee on Petitions on the Bill to provide for the prohibition of manufacture and import of hydrogenated vegetable oils by Pandit Thakur Das Bhargava.

Shri Frank Anthony (Madhya Pradesh): May I know whether hon. Members will get an opportunity to discuss the Estimates Committee Report?

Mr. Speaker: During the Budget discussions, when the estimates of the

various Ministries will be coming before the House, Members will have an opportunity of discussing this Report.

Shri Sidhva (Madhya Pradesh): Apart from the general discussion on the Budget, do you not think, Sir, that it would be advisable to set apart some one or two days exclusively for this particular Report? There are important documents referred to in it.

Mr. Speaker: I would not like to express an opinion on that point. It all depends upon the time available to the House. This has to be related to the business of the House, as a whole.

Shri Frank Anthony: I particularly ask this question because Government have already taken action on the Report of the Estimates Committee before we have had any opportunity to consider the basis of the Report.

Mr. Speaker: The complaint can be both ways. One complaint can be that unless the Report comes before the House no step should be taken. The other complaint can be that although the Committee has made a recommendation Government are sitting tight on it.

Shri Sidhva: Mr. Anthony is not correct.

Mr. Speaker: The Estimates Committee is a Committee of this House consisting of 25 Members and when it makes a unanimous Report, the convention should be that Government should accept it and act on it instead of waiting till the House pronounces its judgement on it. Government may, for their own reasons, not do that, in which case, it is another matter.

**CODE OF CIVIL PROCEDURE
(AMENDMENT) BILL**

The Minister of Law (Dr. Ambedkar): I beg to move:

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

303PSD

[Dr. Ambedkar]

The object of this Bill is three-fold. The first one is to make the Civil Procedure Code applicable throughout India, except in certain areas which are specified in Clause 2 of the Bill. As the House will remember, while the Civil Procedure Code extends to what are called Part A States, it does not extend to Part B States. Part B States have, each of them, their own Civil Procedure Code which is although more or less the same as the Civil Procedure Code which operates in Part A States yet it constitutes a separate jurisdiction. The result is that there is a great deal of difficulty in the service of summonses and in the execution of decrees passed by courts in Part A States within the areas covered by the courts of Part B States. Since India has become one under the provisions of our Constitution, it is desirable from the point of view of establishing civil jurisdiction in the matter of suits and processes and execution of decrees that there should be one single Civil Procedure Code. That purpose is achieved by Clause 2.

The second object of the Bill is that there were certain matters which were not covered by the existing Civil Procedure Code even as it operates in Part A States. For instance, there was no provision for the service of foreign summonses from foreign courts. Again, there was no provision for the execution of decrees passed by civil courts in places to which this Code did not apply. Similarly, the execution of decrees passed by revenue courts in places to which this Code did not apply was also a matter not covered. Similarly, the provision for the operation of commissions issued by foreign courts is also not provided for by our present Civil Procedure Code. In order to provide for these matters, there are introduced in this amending Bill clauses 6, 8, 9 and 11 which deal with them. They are by themselves so self-explanatory that I do not think that any observations of mine are necessary to make hon. Members understand what is the purport of these new clauses.

The most important clause, of course, is clause 12 and it is with regard to it that I propose to offer some remarks. As will be observed, clause 12 substitutes sections 83, 84, 85, 86, 87 and 87B. These sections deal with suits by aliens, by or against foreign Rulers, Ambassadors and Envoys. Now, the only sections in which certain changes have been made are 86 and 87B. So far as section 86 is concerned, it is really the old section 86 with

some minor changes. The one change that is proposed to be made in section 86 is in sub-clause (2)(d). It deals with the waiving of a privilege given to the foreign Rulers, namely, that they shall be sued only under certain conditions and subject to the satisfaction of certain procedural rules. The question that has been raised is whether any such person covered by the provisions of section 86 can waive this privilege or whether, notwithstanding the fact that he is prepared to waive such privilege, nonetheless the statutory provision should be gone through. Some courts in India have held that this being a statutory privilege of a procedural character, it is not open to the party to waive it and that a person who wants to sue should follow the particular procedure. Now, it does not seem very right or correct that a person who has been given a privilege should be debarred from taking the benefit of that privilege if he thinks that he does not need or does not want the benefit of that privilege. In order, therefore, to set this matter right, this provision has been introduced which expressly says that a person who has been granted this privilege may waive it if he so desires.

The second clause in section 86 which makes a change and to which I wish to draw the attention of the House is sub-clause (4)(b). We have added to the old categories of privileged persons one more category, namely, the category of a High Commissioner stationed in India. The position of a High Commissioner was up to now somewhat of an anomalous character. Is he an Ambassador? What is he? Whom does he represent? Does he carry the privileges as the representative of a foreign ruler does? In order, therefore, again to remove this ambiguity, it has been felt that it would be desirable to include the Ambassador in the category of privileged persons. There are, for instance, within our territory representatives of the Commonwealth who have been called High Commissioners and who from a diplomatic point of view occupy the same position as Ambassadors. Consequently, whatever may be the reason for making this distinction in their designation, factually, they do represent the heads of their Governments and it is, therefore, proper that they also should receive the same kind of consideration which an Ambassador does.

The other clause which makes a change in the old Section 86, is Clause 86, sub-clause (4), sub-clause (c). It

says that the privilege granted to the heads of the foreign Government, or to their Ambassadors and High Commissioners may also be extended to such members of their retinue and their staff as may be notified by the Government of India by public notification. Here again, from the point of view of international law there does not seem to be any unanimity. One set of international lawyers have held that when you once grant immunity or a privilege to the Ambassador as the representative of a foreign State and you do it on the ground that his little colony is a little bit of his country established here, there is no ground, legally speaking, for making any distinction between the man himself and the agents through whom he operates in this country. There are other international lawyers who have said that such privileges need not be extended to everybody, but a State is free to pick and choose as to whom it shall grant these privileges. Now as this matter is not settled in terms of international law, it is felt that the best course would be for the law to give the power to the Central Government to notify whom it shall extend this privilege. It would be possible under this clause for the Foreign Department of the Government of India to make enquiries as to the practice prevalent in other countries and to make suitable notifications in order to be in conformity with the largest political international opinion in this country. This is all that we propose to do by way of changes in the old Section 86 of the Civil Procedure Code.

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Now, I come to Section 87B in which I know most Members are deeply interested. Section 87 deals with the Rulers of the former Indian States. The question is whether they should also be given any privileges, such as the one they had under the existing Civil Procedure Code. Obviously, since they have ceased to be Rulers in the political and legal sense of the term, they of course cannot claim any immunity from the operation of the law which is applicable to the rest of the citizens of this country. But the House will know that certain commitments have been made both by the Government of India, and, if I may say so, also by the Constituent Assembly when the Constitution was before them, and it is necessary that we must recognise what we have already done. What is, therefore, proposed to be done by the new Section is to make Section 85 and sub-sections (1) and (3) of Section 86 applicable to the Rulers of the former Indian States. If hon. Members will refer to section 85 as put down in this amending Bill, they

will find that it only says that when a foreign Ruler proposes to sue or if he is being sued, he may be permitted to appoint any particular individual, and the Government of India may permit him to do so, to conduct the litigation on his behalf either as a plaintiff or as a defendant. There is nothing wrong in extending this. The only privilege, so to say, under Section 85 that a Ruler of a former Indian State gets is that he may not be required to attend personally when the suit is proceeding against him. He can defend by proxy.

With regard to 86(1), it says that the consent of the Government of India may be necessary before any proceedings of a civil character are launched against a Ruler of a former Indian State. This matter, again, I believe, was considerably debated yesterday when we were dealing with the Bill to amend the Criminal Procedure Code. The point was that in the present circumstances, there are grounds to believe that those persons residing in the Indian States may have many grounds or reasons for giving effect to their grudge, to their enmity, or personal hostility to a prince, and they may, without any *bona fide* reason drag him to a court and harass him. The object of requiring the consent of the Government of India is not that there shall be vested in the Government of India an absolute power to protect the prince from any kind of litigation in which the opponent may have a substantial ground for proceeding against him, but to see that the claim that is made against him is of a *bona fide* character. Beyond that there is no purpose in requiring this consent.

With regard to sub-clause (3) it gives him freedom from arrest and execution of decree against his property except with the consent of the Central Government. As I said, these are merely, what I might say, fulfilment of certain undertakings that we have given in order to maintain the dignity of the Indian Rulers. Beyond that there is nothing.

I might also draw the attention of the House to the definition of the word "Ruler" which is given in section 87B (2) (b). I think that definition is important. It is not that every Ruler of a former Indian State will get the benefit of the provisions contained in section 87B. The definition is of a restricted sort, namely, that the Ruler must be recognized by the President as one entitled to these privileges. If a prince were to behave in such a manner that the President thinks that he ought not to be recognized, it would be perfectly possible for the President to delete his name from any notifica-

[Dr. Ambedkar]

tion, so that he would be reduced to the status of an ordinary citizen and be liable to the ordinary process to which every citizen will be liable in this country under the Civil Procedure Code.

The other clauses are just to clear any ambiguity, difficulty and so on. The most important clause is clause 12 and I think I have given the House sufficient explanation as to the fundamental basis of the amendments which have been introduced by this Bill.

Mr. Speaker: Motion moved.

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

Dr. R. U. Singh (Uttar Pradesh): The hon. the Law Minister has explained to us the objects of the Bill. To those portions which intend to make the law uniform throughout the country and those which fill up certain gaps which it was necessary to fill up, there will not be any objection. But I do propose to say something as regards certain provisions which have been incorporated and to which the hon. the Law Minister has made extensive references.

The provisions are contained in clause 12 of the Bill and, really speaking, they can be classified under two heads. There is a new provision to which he has made reference and that is contained in new section 86 (4) (c) regarding privileges and immunities of members of the diplomatic staff. The old provisions, as he has pointed, are those which existed in the Civil Procedure Code did not make any reference to the immunities of the diplomatic staff. The hon. the Law Minister has told us that because the law on the question is uncertain, Government are not in a position to say which members of the diplomatic staff will be enjoying the privilege that is accorded to Ambassadors etc. The knowledge of the hon. the Law Minister as regards international law, like other branches of the law, is very great indeed. But with due respect I might say that as regards this part of the law, the position is very much certain. Formerly there might have been some differences here and there. But without any doubt whatsoever, if I can use strong words. I might say that now there is agreement that the privileges of the Ambassador or Diplomatic Agents do extend to all persons associated in the performance of the duties of an Embassy or Legation. Further, the rule is that the court is bound to take judicial cogni-

zance of the status of the Ambassador as also of the members of the staff. The normal practice is that a list of the members of the staff is submitted to the Foreign Secretary who grants recognition. If recognition has been accorded by the person who deals with foreign affairs, a statement to that effect is binding on the court.

With regard to this part, namely, "any such member of the staff or retinue of the Ruler, Ambassador or Envoy of a foreign State or of the High Commissioner of a Commonwealth country", so far as the staff or retinue of the Ambassadors and Envoys of a foreign State or of the High Commissioner of a Commonwealth country are concerned I say with due humility that there is no uncertainty about the international law on the question. There is no authority for the view, however, that the staff or retinue of the Ruler are entitled to any privileges. On this point the Government may like to think over. But as regards the most important part of this sub-clause there cannot be any doubt.

In this connection I wish to say that certain provisions are being introduced here which are, really speaking, not of a procedural character but they have remained as part of the Civil Procedure Code for some time, and that perhaps is the justification for the hon. the Law Minister to come forward with provisions of this kind. As the provisions stand, they are concerned with the immunity of the Diplomatic Agents. But modern law grants such immunities to others also. For example, the United Nations has been given a corporate character and the same immunity has been allowed to the members of the U.N. staff. The British Act in this respect allows the same immunity to the International Court of Justice also. Further, the representatives of foreign Sovereigns attending international conferences have been allowed a similar immunity. While I cannot object to what has been done, I have no doubt that even though a new provision is being introduced it is not very definite and if Government deemed it fit to extend the immunity to any others by the provisions of the Civil Procedure Code, it was perhaps necessary to consider very seriously others who under modern international law are deemed entitled to similar privileges. I refer to the United Nations organisations like the International Court of Justice and representatives of foreign Sovereigns.

We follow Great Britain in so many regards and I dare say that this is one regard in which we might justifiably follow Great Britain. There is an old

Act in England, the Diplomatic Privileges Act and there have been considerable amendments to that Act.

The amendments were made in 1941, 1944 and 1946. I do think that the present provisions in the Civil Procedure Code should continue to stand. The Government will do extremely well to pass a law on the lines of the British Diplomatic Privileges Act.

Coming to the other more important question, namely, the immunity that is sought to be granted to the former Rulers of Indian States, which is contained in the proposed section 87B, I must say that I do not wish to enter into a discussion of the constitutional or legal aspects of the question. All that I would say is that Parliament must respect the assurances that have been given, but we must consider carefully to what extent the assurances must be observed. It is common knowledge that there were about 600 States with varying powers, some exercising jurisdiction over a few acres only and others exercising the so-called sovereignty over a few souls only. The House is certainly entitled to know what kind of guarantee has been given because it is in the terms of that guarantee that our attitude in this matter will have to be determined. The scope of the immunity in civil matters is an extremely important one. Members of the House who are not very familiar with legal matters might not realize the implications of the question of immunity as it is sought to be granted to the Rulers. For example, the hon. the Law Minister referred to certain vexatious suits that might be brought by the subjects of the State on account of retaliation. If that only was there, that would not bother me but I might tell the House that the implications of the immunity are very many. I shall give a few instances: if the present clause is passed, and if the so-called Ruler of an Indian State comes to Delhi and makes purchases of cloth and refuses to pay, under the ordinary law, as it stands, it is not open to a Court to take cognizance of that. If he runs over an individual while he is driving his car, a citizen of India sustains an injury but the Ruler is not liable. The Indian Ruler may publish a paper and he may publish defamatory statements in that paper. The persons so defamed will not have a right to proceed against the Ruler under the present law. The implications of this immunity from a suit to the extent to which it is going to

be guaranteed, might be definitely and clearly understood.

As regards the Code of Criminal Procedure (Amendment) Bill, we find from the Statement of Objects and Reasons that it was intended to protect the Rulers of Indian States from vexatious criminal proceedings and further on, it was said:

"that while giving the Government of India full discretion to let the law of the land have its course in appropriate cases, this provision will enable them to safeguard the Rulers' privileges so far as possible."

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

The Home Minister gave us an assurance the other day that if there was a *prima facie* case and the criminal proceedings sought to be instituted were not frivolous or vexatious, there is no doubt that permission would be granted. As regards the Statement of Objects and Reasons of the Code of Civil Procedure (Amendment) Bill, standing in the name of hon. Law Minister, there is nothing of the kind that I read out to this House from the Statement of Objects and Reasons of the Bill to amend the Criminal Procedure Code; and in the speech which the hon. Law Minister made, commending the motion for consideration, he has not given us any assurance of that kind which the hon. Home Minister gave us yesterday. I was hoping that he would say that unless the Civil proceedings are vexatious or frivolous the permission to sue would be granted in all cases. I have pointed out how difficult the position would be if suits in contracts, torts, etc. cannot be filed against the Rulers of the States.

Then there are two other questions which are of importance in the same connection. What is the duration of these guarantees? The House would like to know the policy of Government in this regard. Will the guarantee extend to the life-time of the present Rulers or will it extend to their successors also? It may take hundreds of years. Government's policy in this regard should be known. If they say that the guarantee will extend for ten years, perhaps Government are abiding by the assurances that they gave and they are at the same time letting the ordinary law of the land have its course or it may be that they have come to the conclusion that the guarantee extends to the life-time of the present Rulers only. I have no doubt that there might be differences of opinions as to whether the guarantee

[Dr. R. U. Singh]

extends to the life-time of the present Rulers or their heirs and successors also. We are enacting a Code and if we are putting anything in the body of the Code itself, we should like to know what the policy of Government in this regard is.

I have a feeling that if Government were revising this part of the law they might have brought it up to date. These provisions came into existence in 1908 or perhaps earlier and there has been a great deal of change in the law with respect to aliens and to suits by or against foreign sovereigns and I was hoping that if Government deemed it fit at all to make any revision in this part of the law, they would consider making the law up to date. This has not been done.

There is only one more observation that I should like to make in this regard. In the old Civil Procedure Code the words used were "Head of a State" and not "Ruler" and these words were used, I have no doubt because the terminology of International law knows only two terms ordinarily viz., "Head of a State" or "sovereign". I do not know why the sponsors of the Bill have deemed it necessary to take away that international terminology and substitute it by the word "Ruler". I have not objected to that by suggesting amendments because the provisions of the Bill as they have been framed, have been framed with reference to the term "Ruler" which has been defined and it would be slightly difficult and clumsy also if attempts were made to change it. I do wish that when Government is dealing with matters relating to International law, they should adopt the terminology known to International law rather than the terminology known to the constitutional law of the country.

श्री आर० सी० उपाध्याय : मैं बिल का स्वागत करता हूँ लेकिन मेरे दिमाग में जो सन्देह है उस को मैं यहां पर कहना चाहता हूँ। ८७ (बी) में आप ने रूलर्स (Rulers) को प्रिविलेजेज (Privileges) विशेष हैं वह ठीक हैं मैं उन की बुखालिफत नहीं करता, लेकिन मैं आप से यह जरूर चाहता हूँ कि आप इस बात का इत्मीनान दिला दें कि जहां तक रूलर्स के प्रिविलेजेज का सम्बन्ध है वह यहां समाप्त हो जाते हैं, इस से आगे जाने वाले नहीं हैं। मैं

रियासत के रहने वाले नागरिक की हैसियत से यह बात जानता हूँ कि रियासतों के राजाओं ने चूँकि वहां वह सावरेन (Sovereign) थे नये नये अधिकार और नये नये प्रिविलेजेज बना रखे थे। खैर वह पुरानी बातें छोड़िये, लेकिन इस वक्त भी जब मैं पिछले दिनों गया तो एक नई समस्या देखी। वह यह थी कि पिछले चार पांच साल पहिले से हमारे यहां के राजा साहब ने अपने बड़े लड़के की तरफ से जो नाबालिग था एक दावा कर रखा है करीब डेढ़ लाख रुपये का। उस में मुद्दालय ने यह चाहा कि वह राजा साहब की शहादत करायें। अदालत ने सम्मन (Summons) जारी किया। राजा साहब न कहा मैं अदालत में नहीं आ सकता। यहाँ तक भी ठीक था। अदालत ने कहा कमीशन (Commission) जारी किया जाये। कमिश्नर साहब जब राजा साहब के पास गये तो उन्होंने शहादत देन से इन्कार किया और कहा कि यह मेरा स्पेशल प्रिविलेज (Special Privilege) है कि मैं कहीं शहादत न दूँ। अब अदालत बड़ी परेशान हुई कि क्या किया जाये, उन को किस तरह मजबूर करे या कार्रवाही करे। उस ने उन से दुबारा प्रार्थना की, उन्होंने दुबारा इन्कार कर दिया। तो मैं चाहता हूँ कि आप यह कह दें कि जितनी रियायतें आप ने क्रिमिनल प्रोसीजर कोड (Criminal Procedure Code) में दी और ग्राज सिविल प्रोसीजर कोड (Civil Procedure Code) में उन को दी हैं उस से ज्यादा उन्हें कुछ नहीं है। अब यह बात कह दी जाये कि जहाँ तक अदालत व न्याय का सम्बन्ध है राजाओं को इस से ज्यादा कोई भी अधिकार नहीं है जिस में कि जनता में, खुद राजाओं के दिमाग में और अदालतों के विभाग में यह स्पष्ट हो जाये क्योंकि

कवनेन्ट्स (Covenants) में उनके अधिकारों को सुरक्षित रखा है। आप के स्पष्ट कर देन से यह मामला हमेशा के लिए साफ हो जायेगा। इसलिये इन दिक्कतों को देखते हुए अगर आप यह विश्वास दिला देते हैं कि इस से आगे कोई रियायतें उन को नहीं होंगी तो मुझे सन्तोष है और मैं इस बिल का समर्थन कर सकता हूँ।

(English translation of the above speech).

Shri B. C. Upadhyaya (Rajasthan): Sir, I welcome this Bill but at the same time whatever doubts I have in my mind I would like to relate them here under section 87B; privileges have been given to the rulers; they are good and I do not oppose them. But with regard to them I certainly want this assurance that they will end here and will not go beyond that. As a citizen of one of the native States I know that the princes of the States had created new privileges and new powers for themselves because they were sovereign rulers there. Let us not talk about the things that are past. Even now when I went there some time back I saw that a new problem has arisen. Some four or five years ago our Raja Sahib had filed a suit for about one and a half lakh of rupees on behalf of his elder son, who was a minor then. The respondent of the case wanted to have the evidence of the Raja Sahib recorded. The court issued summons, but the Raja Sahib declined to present himself in the court. So far it was good. The court ordered that a commission should be issued and when the Commissioner approached the Raja Sahib the latter declined to give evidence saying that it was his special privilege not to give any evidence anywhere. The court became perplexed not knowing what to do; how to press Raja Sahib or to proceed on with the case. The court again requested the Raja Sahib but he again declined. So I would like the Government to promise that whatever privileges were given to them in the Criminal Procedure Code yesterday and in the Civil Procedure Code today, they will have nothing more than that. It should be told here and now that so far as the courts and the administration of justice is concerned, princes will have no special powers; so that it may not remain ambiguous to the people, to the courts and to the princes themselves, because some special privileges have been granted to them

in the various covenants. Such a clarification will clarify the position for ever. In view of these difficulties if the Government assure us that they will have no further privileges then I shall be satisfied and can support this Bill.

Shri Sarwate (Madhya Bharat): I wish to make a few observations regarding section 87B. I must say that this provision makes the position in certain States worse than what it is at present. I may say that in the State from which I come, that is Indore, suits could be lodged against the Ruler in respect of his transactions from the privy purse. There were two separate heads: one, transactions from the privy purse, and the other, transactions as a Ruler. As regards transactions from the privy purse, the Ruler was considered as a citizen. For instance, the claims of the Ruler as a Ruler had priority as regards execution on the property of the other citizens. As regards his privy purse, there was no such claim. The privy purse stood exactly as the claim of the other citizens. On the other hand he could also be sued as a citizen regarding transactions which he carried from the privy purse. Therefore, this section 87B makes the position worse in this respect.

Further, the hon. Dr. Ambedkar observed that if a Ruler behaved improperly, so to say, then, cognisance of such improper behaviour could be taken by the removal of his name from the list of recognised Rulers. I am afraid whether this could be done under the present section as it is worded. The present section gives the power to recognise; but there is no power to remove or delete when once recognition has been granted. At least for the sake of clarity, I submit there should be left no doubt in this respect and there must be some provision that the President has the power, in necessary cases, to remove the name once included as recognised in the list.

Shri Tyagi (Uttar Pradesh): "Decognised".

Shri Sarwate: Yes, "decognised."

Then, the provisions of sections 85 and of sub-sections (1) and (3) of section 86 are made applicable, while sub-section (2) is not made applicable. Section 86 (1) makes it necessary that the consent of the Central Government should be obtained before a suit is launched. Sub-section (2) lays down certain principles which should guide the authority giving the consent. I think these principles are sound. One

[Shri Sarwate]

of the reasons, as the hon. Dr. Ambedkar himself observed, is that when a person having a privilege waives such a privilege, the consent should be given automatically as a matter of course. Therefore, I think that if this sub-section (2) is also made applicable in the case of the Rulers, that would be better. This clause is worded in the negative form and I take it that the Central Government shall not give consent unless it appears etc. Instead of this negative form, I think it should be in the positive form that the Central Government shall give consent when it appears etc. The reason is clear. When a person having a privilege himself has come to the court, that is, has submitted to the jurisdiction of the court by instituting a suit himself, it must be taken to be an implied waiver of his privilege. Therefore, if any person who is sued against, that is the defendant in one suit, wants to launch another civil suit or a cross suit or prefer a cross claim, he should be in a favourable position and he should not be required to take the consent of the Central Government. That should be the automatic result of the institution of a suit by a privileged person. Similarly when a privileged person has engaged himself in a trade, it should be that Government would grant the consent necessarily and automatically and it should not be left to the President or the Central Government to refuse. The wording of the clause should be such that Government would be bound to give consent in such cases. Thus in section 87B, the provisions of section 85 and of sub-sections (1), (2) and (3) of section 86 should be made applicable instead of sub-sections (1) and (3). That would make the position of Rulers somewhat less privileged than at present.

Further, I may point out that so far as I can see, in the covenants, this privilege extends not only to the lifetime of the present Rulers, but it extends to their heirs and successors also. I am talking of the present covenants. It may be perfectly open afterwards not to extend this covenant to their sons or heirs and successors. If we interpret the Constitution as it stands at present, as I said yesterday, we will have to interpret it very liberally and due regard will have to be given to the recognition of these covenants. That means that if the covenants are to be observed in the spirit and in the letter, then the Rulers must be granted these privileges and also their successors must be granted all the privileges which at present are being enjoyed by these Rulers. In certain cases they

enjoy the privilege of not being sued at all, and in some other cases they can be sued, but with previous consent. Neither can these privileges be enlarged nor curtailed. Clause 12 is, in a way, anomalous, in that in the case of certain privileges we are enlarging them and in certain other cases we are curtailing them. Let us be quite clear about it and say that the Rulers will be like any other citizen, except that in respect of civil cases against them, the consent of the Central Government would be required and there would be no further privilege.

Shri C. C. Shah (Saurashtra): Sub-section (2) of section 86 has been advisedly omitted from section 87B and I am surprised that my friend Mr. Sarwate should have asked for its inclusion. Sub-section (1) of section 86 provides that no suit can be filed against a foreign Ruler without the consent of the Central Government. Sub-section (2) states the principles on which such consent shall be given and it provides that it shall not be given except in the cases specified in sub-clause (a) to (d). It is a very limited section and only under very limited circumstances can consent be given. As was rightly pointed out by one of the hon. Members, this will not cover the cases of a Ruler who for example, makes a purchase in Delhi and refuses to pay for it, or a Ruler who runs over anyone by negligent driving or commits a breach of contract or tort. In section 87B it has been advisedly and rightly said that only sub-sections (1) and (3) of section 86 shall apply and not sub-section (2). The Central Government can grant permission for any suit against a Ruler, whatever may be the cause of action,—breach of contract, tort or any other. But sub-section (2) says that that consent cannot be given unless it falls within any one of the clause (a) to (d), and they are very limited. Therefore, I submit that section 87B as it stands is perfectly in order and it would be wrong to apply sub-section (2) of section 86 to the cases of Rulers of former Indian States. As has been rightly stated in the Statement of Objects and Reasons, their constitutional position is now very different from what it was previously; and if we extend to them certain of the privileges which we give to foreign Rulers, it is only because of certain guarantees and assurances which we have previously given to them. But the privileges must be of a very limited character. One of the hon. Members has rightly put it when he said that section 87B as worded gives very wide powers to the Central Government to grant or refuse permission. I look forward to an assurance from the hon. Law Minister

to the effect that such permission will be given as a matter of course where there is a *prima facie* case and that the object of section 87B is to prevent only, as was rightly observed by him, vexatious or frivolous suits against the Rulers of the former Indian States.

I may further point out that by sub-section (3) of section 86, the Rulers of the former Indian States have been made immune from arrest as the Rulers of foreign States. I would have wished that this immunity did not extend to them. If a decree has been passed against the Ruler of a former Indian State, his property can be attached with the consent of the Central Government; so there is no reason why he cannot be arrested in execution of a decree and he should be treated on the same footing as any other subject of the State. I would request the hon. Minister of Law to consider whether it is necessary to extend that absolute immunity from arrest to the Rulers of the former Indian States, that is immunity against arrest under any circumstances. I submit that it may be provided that he cannot be arrested except with the consent of the Central Government, just as a decree cannot be executed against his personal property except with the consent of the Central Government.

Thakur Krishna Singh (Uttar Pradesh): Much has been said about the proposed section 87B. The hon. the Law Minister said in his speech that there might be some grudge on the part of the States people against their Rulers and out of malice or out of this grudge some frivolous or malicious suits might be filed. I may assure him that that is not the truth. The States people have no grudge or malice against these Rulers. I can assure him of that. I do so because if such a thing is said, it might create a false impression upon the Rulers themselves, especially when they read the speeches in the newspapers, that the States people have got some grudge against them, I can assure everyone that the people of the States have no grudge against the Rulers. They are our brothers and they are as much responsible citizens as anyone else.

As regards section 87B I would only say that apart from the assurance about which other hon. Members have spoken, I would like to have an assurance from the hon. the Law Minister that the Central Government will give its consent in every case.

Shri Tyagi: But how long will that assurance last?

Thakur Krishna Singh: Yes, that is another point to be decided, and that question is to be answered by the hon. the Minister of Law. Are these privileges to last for the life-time of the Ruler with whom the agreement has been entered into? Or are they to extend to eternity? Should they end with his death? That point has to be cleared.

Regarding the covenants, I would say that all the privileges that have been given in them should be honoured. There is no doubt about that. But I think the immunity given in these proposed sections is greater than the privileges given to the Rulers under these covenants. For example, if a suit is to be filed against a Ruler, the consent of the Central Government is necessary, and if there is an assurance that this consent will be given, then it will be all right. But if the suit is filed after getting the consent and if a decree is passed by the court, then again, for the execution of that decree against the moveable or immovable property of the Ruler, the consent of the Central Government is required. That, I would say, is going too far.

Shri Tyagi: Sir, can Members change places? I was called to order once for sitting there, but I find the Chief Whip sitting in the seat of the hon. Shri Jawaharlal Nehru.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): Sir, in the absence of the Leader, the Whip always occupies his seat. That is the convention in the House of Commons.

Mr. Deputy-Speaker: He is the Leader for the time being.

Thakur Krishna Singh: The immunity now proposed is far beyond the privileges that are in the covenant, especially the one that is proposed to be given under sub-section (3) of the proposed section 86.

Now I come to clauses 8 and 9 of this amending Bill. I have certain doubts about these clauses. In those parts of the country where this Civil Procedure Code is applicable, we have the procedure that a decree can be passed only if there is a certain amount of evidence. A certain amount of evidence is necessary before a decree is passed. If a decree of any civil court to which this Code does not apply is made executable in those parts of the country where this Code is applicable, it might create some injustice. In the courts where this Code does not apply it may not be necessary that a certain amount of

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evidence should be produced to establish a claim. Only the filing of a plaint will do and they pass an *ex parte* decree. In that case I submit that the decrees of those courts should not be made executable in these courts. I submit that decrees on merits only should be made executable in those parts of the country, where this Code is being applied.

The same is the case with clause 9 of this amending Bill, regarding execution of decrees passed by revenue courts in places to which this Code does not extend. Any revenue court decree passed in those areas where this Code is not made applicable, if sought to be executed here, should be on merits and if those decrees are not on merits they should not be made executable. The court executing the decree should see that the decree is executable on merits.

Shri K. Vaidya (Hyderabad): I am glad that this procedure has been made applicable to all the States. I am not going into the controversy whether those privileges should be secured to the Rulers of foreign States or not. I also think that if those privileges had been granted and secured by a covenant we should abide by them.

By making the Civil Procedure Code applicable to Part B States the privileges have been extended to the Princes. For example, if the Ruler of any other State came to Hyderabad we were entitled to file a suit against him without any permission from the Central Government. Now that the Code has been made applicable to Part B States their privileges have been extended. Formerly the Code was confined only to British India but now it will apply to the whole of the Union.

Apart from that there is another point. Under section 86(3) no Ruler can be arrested and if his property is to be attached, it should be done with the previous consent of the Central Government. So far as decrees are concerned no such privilege should be given to him. The law requires and the Civil Procedure Code also contemplates that when a decree is passed the person against whom the decree is passed must deposit the money in court. If a man wants to have certain privileges, at the same time there must be certain obligations upon him. He wants privileges on account of his status and position but at the same time he does not want to pay the money. If that is so, I do not see why such a privilege should be granted to him. In many cases it may happen

that he may not have property in a particular area. He makes purchases in a particular place where he has no property. We cannot arrest him and the result is that a person has to run to the place and find out whether he has any immovable property, so that he can take attachment against that property.

I am glad that sub-section (2) of section 86 has been omitted from section 87 B. If it had been made applicable it would have been very difficult to get the permission or consent of the Central Government, because it has been limited only to three cases, namely, that he submitted himself to the jurisdiction of the court, secondly that he has some sort of trade and thirdly that he has got any immovable property. In 80 per cent. of cases these provisions would not be applicable. In that case it would be very difficult for the Central Government to grant any permission or consent because the powers of the Central Government have been limited. I hope that at the time of granting permission the Central Government will necessarily take into consideration all these facts. If the man himself is carrying on a trade, has submitted himself to the jurisdiction of a court and himself goes to a particular court, there should not be any apprehension that the permission would not be granted. I am glad that this provision has been taken off from section 87B.

As regards "Ruler" and successor, the "Ruler" has been defined here as:

" 'Ruler' in relation to a former Indian State, means the person who, for the time being, is recognised by the President as the Ruler of that State for the purposes of the Constitution."

It means no other Ruler but the Ruler who is at present recognised. It cannot be made applicable to his successor. The word Ruler has been defined in the Constitution but the definition is rather limited. Article 366 (22) defines a Ruler as follows:

" 'Ruler' in relation to an Indian State means the Prince, Chief or other person by whom any such covenant or agreement as is referred to in clause (1) of article 291 was entered into and who for the time being is recognised by the President as the Ruler of the State, and includes any person who for the time being is recognised by the President as the successor of such Ruler."

Here comes the question of a successor. Article 291 applies to privy purse. If this definition had been made in the Civil Procedure Code probably the definition under article 366 (22) would have been applicable and there would have been some difficulty. Then the court would have interpreted the word "Ruler" as the successor. Unless there is a definition given of a "Ruler" in the Code I do not think his successor can be included. For that reason it should be made clear that the "Ruler" means only the person who was there at the time and not his successor.

Dr. Ambedkar: There is not much that calls for a reply.

But as certain points have been made I should like to make my position clear.

The first speaker who took part in this debate said that the provision contained in this Bill with regard to the immunity to be granted to the retinue of a diplomat was not in accord with international opinion. He felt that he was convinced that there was unanimity among the writers dealing with international law that not only the diplomat should get the privilege but also his retainues. I am sorry to differ from him. I have before me several extracts from treatises dealing with international law and I do not wish to weary the House by reading them. I can assure the House that I do not find any such unanimity from the extracts before me. It is on that account that the section has been worded in the way in which it has been worded. My friend will also realise that whatever may be the method of defining the position, the result will not be in any way different if the clause is allowed to stand as it is. Because whether the immunity is granted by the section itself or whether it is granted by a notification issued under the section, the result cannot be very different.

His second point was that we were not justified in using the word "Ruler", because there are heads of states who are not called "Rulers". I should like to draw his attention to the fact that in drafting this clause we have been following practically the same language which has been followed in the existing Civil Procedure Code. I would like to draw his attention to the heading of section 83 of the Civil Procedure Code, also to section 85, sub-clauses (1) and (2) and section 86, where the wording which we have used is also the wording used there. There is therefore no departure from the language that has been adopted in the existing Civil Procedure Code. But in this connection I would like to draw

his attention to the definition that we have given of a "Ruler" which is contained in proposed section 87A of the Bill which says:

" 'Ruler' in relation to a foreign State, means the person who is for the time being recognised by the Central Government to be the head of that State."

Therefore, whether any particular State has a monarchical form of Government and the Ruler is a monarch or whether any particular State has a republican form of Government with a President or some other dignitary at the head of it, it really cannot make any difficulty at all in view of the fact that our definition leaves the matter to the Central Government to state who is to be regarded as the head of the State.

Coming to the position of the Indian Rulers, I have been asked to clarify one or two things. One is how long these privileges are going to last, and then, secondly, whether the privileges are personal privileges of the present, existing Rulers or whether they have any hereditary character which will pass on from father to son. My lawyer friends will realise that a lawyer never undertakes to solve a problem unless the problem is present to him, before him. No such problem is present before me and therefore I am not in a position nor willing to commit myself to any particular interpretation.

Mr. Deputy-Speaker: It is there: Rulers for the time being.

Dr. Ambedkar: Yes, for the time being. Therefore, what I am saying is that this is a matter which is open to consideration, to revision, at all times. It is not a matter which has been so taken out of the purview of Parliament or of Government. If Parliament so chooses it can decide that these privileges and immunities shall end because enough time has intervened for us to suppose that these enemies of the Indian Princes have died out or disappeared without leaving any kind of progeny to harass them further, or they may take the view that these privileges may be permitted to last till the life time of the present holder. Therefore, the issue is quite open, not a closed one.

With regard to the assurances that have been demanded from me on behalf of Government as to how Government propose to utilise this power of granting or refusing consent, speaking for myself, I cannot have the slightest doubt in my mind that any

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Government or a Member of Government who may be dealing with this matter would ever think it advisable or proper to withhold consent in a matter where the claim is absolutely *bona fide*. I have no doubt in my mind at all because any Member who might be dealing with such a matter would be answerable to the House.

Pandit Kunzru (Uttar Pradesh): Sir, it is past one o'clock now.

Mr. Deputy-Speaker: If possible let us complete the first reading now.

Pandit Kunzru: The hon. Minister might take half an hour.

Mr. Deputy-Speaker: How long will the hon. Minister take to finish?

Dr. Ambedkar: I will not take long, Sir.

My friend, Mr. Sarwate, in his anxiety to criticise Government for giving certain privileges to the former Rulers of Indian States said that he did not quite understand why sub-section (2) of section 86 was not made applicable to the Indian Princes. I am sure my friend, Mr. Sarwate, will realise that we have done the wisest thing in not applying it because if we had applied it Government would have been debarred from giving any consent to a suit against a Prince unless the four conditions mentioned in sub-section (2) had been satisfied. Clauses (a), (b), (c) and (d) embodied in sub-section (2) of section 86 are really rules of international law. There can be no dispute about them and we don't want to treat the Indian Princes on the same footing as ambassadors or heads of States or Rulers of other foreign States. The immunity that we have granted, therefore, is of a very small dimension. If sub-section (2) had been made applicable the thing would have been worse.

I do not think, therefore, that any serious objection can be levelled against this Bill.

Mr. Deputy-Speaker: The question is:

"That Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The House will stand adjourned till 2-35 P.M.

The House then adjourned for Lunch till Thirty Five Minutes Past Two of the Clock.

The House re-assembled after Lunch at Thirty Five Minutes Past Two of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]

Clauses 2 and 3

Clauses 2 and 3 were added to the Bill.

Clauses 4 to 11

Shri Raj Bahadur (Rajasthan): I have an amendment to clause 4 but I would not like to move it formally. I only want to say one thing. Nowhere in the Constitution has the Central Government as such been empowered to constitute a court. The authority that is there in this behalf is exercised in the case of the Supreme Court by the President and in the case of the courts in the States by the Governor of the State. My objection pertains only to this point. I think that if we simply substitute the words "under the authority of the Constitution" for the words "Central Government" it would be much better.

Dr. Ambedkar: I cannot accept the suggestion. The Constitution has established certain courts—the Supreme Court and the High Courts. As far as the establishment of special courts, Parliament has been given the power and the Central Government can act under the authority given by Parliament. Therefore, it is inappropriate to use the words "the Constitution of India". Besides, "Central Government" has been used throughout in all the adaptation orders and I think it would be very unfortunate if a departure is made in the matter of terminology in this particular Bill.

Mr. Deputy-Speaker: So, the hon. Member's point is answered. I shall put clauses 4 to 11 together as there are no amendments to them.

The question is:

"That clauses 4 to 11 stand part of the Bill."

The motion was adopted.

Clauses 4 to 11 were added to the Bill.

Mr. Deputy-Speaker: On a point of information, in regard to clause 9 may I know from the hon. Minister what is the need for saying "execution of a decree of any revenue court in any State in any other State". Could it not be "a revenue court in that State"? Why should it be augmented?

Dr. Ambedkar: The object of putting it in larger terms is to facilitate

the execution. If a revenue court is properly established and has got the jurisdiction to pass a decree, it is felt that there is no reason why the execution of it should be confined to another revenue court only.

Clause 12.— (Substitutions of new sections 83 to 87B etc.)

Shri Naziruddin Ahmad (West Bengal): I have a point of order with regard to this clause. I submit that this clause is *ultra vires* of article 14 as well as many other articles of the Constitution.

Dr. Ambedkar: I think we dealt with this yesterday.

Shri Naziruddin Ahmad: This clause requires that foreign Rulers cannot be sued except with certain formalities from the Government of India and under the proposed section 87B it prohibits the institution of any suit against a very picturesque personality, namely, the Ruler of a former Indian State—picturesque in the sense that he is nothing more than an ex-Ruler of a former Indian State and he is not a Ruler of a State.

Shri D. D. Pant (Uttar Pradesh): He is like the Raja of the Ram Lila.

Shri Naziruddin Ahmad: Or the ex-husband of a divorced woman.

Mr. Deputy-Speaker: This point was thrashed out yesterday on a similar matter. The point is very interesting and can be raised as often as possible, but I do not think any new thing has dawned upon the hon. Member.

Shri Naziruddin Ahmad: I have something new.

Mr. Deputy-Speaker: Unless it is a matter of importance and substance.....

Shri Naziruddin Ahmad: It is a matter of great importance and fundamental importance.

Mr. Deputy-Speaker: I am referring to the arguments. Unless he has any new arguments, it is not likely that I shall lay aside the precedent already established.

Shri Naziruddin Ahmad: Thank you, Sir. Yesterday article 14 was discussed rather fully and I rely upon that article without reading or discussing it again. The only question is whether the important provisions of article 14, namely, of ensuring equality before the law, have been taken away by any other provision, namely, article 362 of the Constitution. I submit that article 362 does not take away

the rights freely given without reservation in article 14. Article 362 says:

"In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State."

So, the reservation is with regard to personal rights, privileges and dignities of "the Ruler of an Indian State"—not an ex-Ruler. That is why the ambiguous phrase "Ruler of a former Indian State" has been used in the Bill.

Mr. Deputy-Speaker: He is not a former Ruler of an Indian State. He is only a Ruler of a former Indian State. He is still a Ruler.

Shri Naziruddin Ahmad: No. The difficulty is, if we describe him as a "former Ruler", then article 362 will not at all apply to him. In order to circumvent that difficulty, they say "Ruler of a former Indian State" which, apart from quibbles, really means an ex-Ruler of a former Indian State. The former Indian State does not exist; the Ruler does not exist; and therefore there can be no such thing in the eye of the law as the "Ruler of a former Indian State". I submit that there is no Ruler.

Then there is a more important thing. That is that the reservation is about the things referred to in clause (1) of article 291 vesting these rights. I submit first of all that these things do not affect personal rights, privileges and dignities of the Ruler. Clause (1) of article 291 reads thus:

"Where under any covenant or agreement entered into by the Ruler of any Indian State before the commencement of this Constitution, the payment of any sums, free of tax, has been guaranteed or assured by the Government of the Dominion of India to any Ruler of such State as privy purse—etc., etc."

Article 291 is exclusively meant for the protection of the privy purse sums of Rulers. No other right of any kind whatsoever is adumbrated in clause (1) of that article. The right of an ex-Ruler in this matter is not

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to be sued without the permission of the Central Government.

Shri Venkataraman (Madras): May I draw the attention of the hon. Member to the definition of the word "Ruler" appearing in sub-clause 2(b) of article 363, namely:

" 'Ruler' includes the Prince, Chief or other person recognised before such commencement by His Majesty or the Government of the Dominion of India as the Ruler of any Indian State."

Shri Naziruddin Ahmad: All right; but there is the other argument. The House may not be in a mood to appreciate the importance of the point and may be inclined to laugh. But they will understand the gravity of it when the matter is taken to the Supreme Court.

Even if you call a Ruler an ex-Ruler, just like the ex-husband of a divorced wife, if such a thing is possible...

Shri Raj Bahadur: Is the hon. Member entitled to make a laughing stock of the ex-Rulers?

Shri Naziruddin Ahmad: The House was laughing; therefore, I was giving way to them.

Mr. Deputy-Speaker: I agree with the hon. Member Shri Raj Bahadur. What pains me is this. It was only recently that without shedding a single drop of blood a revolution has been effected in our country. The Rulers have been persuaded to establish popular Governments and Covenants have been entered into with them by Government. It is not even three years since these Covenants have been entered into. The hon. Member is entitled certainly to invoke the aid of the Constitution if any of the provisions that is sought to be introduced here by this piece of legislation contravenes any provision of the Constitution. To that extent it is open to him to raise an objection. But such analogies should not be made. These Rulers are still there and may become Rajpramukhs: people have still faith in them. They are, therefore, not to be referred to with such scant respect. They are still Rulers with respect to the chunk of territory which formed their State. Under these circumstances we should be a little more cautious and not use such kind of analogies.

Shri Naziruddin Ahmad: I do not mean to say that I am not in sympathy with them. We have enacted a Constitution and this Constitution has limited or reduced the right of this

House to pass legislation. It is not a sovereign House as is the House of Commons. It is a House which is sovereign when it acts within the Constitution. The only remedy now to pass laws which cannot be passed is to amend the Constitution.

What is the use, I ask, of passing laws which are patently against the tenets of the Constitution? If they are really *ultra vires* it is no merely giving power to parties and to Governments, if according to the Constitution such powers cannot be given.

Now, I come to article 361, clause (4) of which says that no civil proceedings shall be instituted against the President, Governor or Rajpramukh during the term of his office, unless two months' notice is given. It means, that you can institute a suit against the Rajpramukh, the Governor or the President after giving two months' notice, provided it is during the term of his office. When he is no longer in office even this notice need not be given. I can appreciate the necessity of two months' notice so that if there is any real claim that can be settled out of court and a scandal prevented.

Even the Law Minister's explanation in regard to sanction that would be given by the Government of India was somewhat qualified. He, no doubt, said that he was speaking personally, but still he is a very responsible Minister of Government and his views however personal they may be, must be taken with a certain amount of seriousness. He said that there would be no difficulty in getting the sanction from Government even if it is *bona fide* case. I think it is a most dangerous proposition. Whether a case is *bona fide* or not, whether a case is true or not, is a matter for the courts to decide. Can Government be allowed to usurp that function which can rest only in a court of law? In fact you are giving powers to Government which must in fact be exercised by a court of law alone. Well, if you say: "I consider this to be not *bona fide*" and refuse sanction, you adjudicate and interfere in a matter which should be the exclusive function of a court of law. I think it is a very dangerous proposition and this interpretation makes it all the more dangerous. It would be just like obtaining a permit from a Government Department and we know that it is likely to lead to another kind of black-market in Government offices.

Shri R. K. P. Sinha (Bihar): I had no intention of participating in this debate.....

Mr. Deputy-Speaker: Then why should not the hon. Member sit down?

Shri B. K. P. Sinha: But I have been rather provoked by the short point of order raised by Mr. Naziruddin Ahmed. He has made two points with great gravity. His first point was that article 361 or 362 of the Constitution extends certain safeguards to the Rulers, but those safeguards relate only to privy purse and allied matters. His second point is that the protection extends only to a present Ruler of a present Indian State. There is at present no Indian State and there is no present Ruler. Therefore the provisions of that article do not extend to the ex-Ruler. These are the two weighty points that he has raised.

I will simply refer to the language of the article. Article 362 says:

"In the exercise of the power of Parliament or of the Legislature of a State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantee or assurance given under any such covenant or agreement as is referred to in clause (1) of article 291 with respect to the personal rights, privileges and dignities of the Ruler of an Indian State."

Probably the hon. Member has misused the import of these words "personal rights, privileges and dignities". He refers us to article 291. Article 291 refers to a covenant in certain matters, and these matters are payment of any sums free of tax, privy purse and like matters. That article speaks of covenants and extends protection to certain kind of covenants. Article 362 also refers to covenants, but it goes further. Rather it differs from article 291. Instead of confining itself to the words of article 291 it adds certain other things also, and these are personal rights, privileges and dignities of the Ruler of an Indian State. Therefore we have to see whether the protection that is sought to be extended comes within the meaning of these three words or not.

I find from the Statement of Objects and Reasons the following:

"Sections 83 to 87 till recently applied to all those Rulers of Indian States who exercised any sovereign powers within their territories, in exactly the same way as they applied to Rulers of independent foreign States. Although their constitutional position is now very different, it is

necessary to implement the assurances given to the Rulers of the integrated and merged States that they will continue to be entitled to all the personal privileges enjoyed by them."

It is clear from this Statement as well as from the speech of the hon. the Law Minister that certain covenants or agreements were arrived at between the States Ministry and what Mr. Naziruddin Ahmed calls "the ex-Rulers of the ex-States." Those covenants and agreements are there, and according to those covenants and agreements protection has to be extended to the ex-Rulers in these matters. And article 362 covers these matters—it covers the question of personal rights, privileges and dignities. Therefore I stress that this article is competent to extend this protection to them. That is my submission so far as the first point of Mr. Naziruddin Ahmed is concerned.

His second point is that these Rulers are no more Rulers because their States are no more States. My friend Mr. Venkataraman referred to article 363 and the definition of the word "Ruler" therein, but I am afraid that it applies only to article 363. I would refer to clause (22) of article 366 of the Constitution. There the word "Ruler" is defined as follows:

"Ruler" in relation to an Indian State means the Prince, Chief or other person by whom any such covenant or agreement as is referred to in clause (1) of article 291 was entered into and who for the time being is recognised by the President as the Ruler of the State, and includes any person who for the time being is recognised by the President as the successor of such Ruler;".

Clause (22) of article 366 therefore makes it very clear that the protection can be extended to those who in the opinion of some are the "ex-Rulers of the ex-Indian States".

3 P.M.

Mr. Naziruddin Ahmed raised another point. He referred to the statement of the hon. the Law Minister that if a case is *bona fide* then permission will be given as a matter of fact, and he says that what is *bona fide* or not may be a matter of opinion. He is a lawyer of long standing. The words *bona fide*, good faith, bad faith are all well-defined legal terms. They have very clear legal connotation. When he says that in *bona fide* cases sanction will be given, we have to take it that according to the canons of interpretation, according to the significance attached to the words *bona fide* in

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legal terminology, and according to certain well-defined standards, if a suit or case comes within the ambit or the four corners of the definition of the words *bona fide*, permission will be given, and if it does not, permission will not be given. There is no question of arbitrariness because the term has not only been defined once but a thousand times and in all countries of the world. Therefore there should be no disquiet on the ground of arbitrariness of the Central Government.

While referring to this I would like to divert a bit. I was pained to find that this minor concession has been made the subject-matter of such a lengthy debate. Sir, as you were pleased to refer, when the British departed from India we were rather in an uneasy position. They left so many 'Ulsters' in India. It goes to the credit of the Rulers and it goes to the credit of the statesmanship of the great man then in charge of the States portfolio that a settlement was arrived at. I would affirm that were I to write on a clean slate I would never make this provision and I would never allow a provision of this nature to go on the Statute Book. But we are not writing on a clean slate. There are so many things that have gone before. The covenants are there. The plighted word of our Indian Government is there. Shall we go back upon them today? Nation, society, Government, everything is based on faith. What shall be the value of our word? What shall be the value of the words of our Government, if in an uneasy situation we give some word or promise and carry it out so long as the situation demands but when the situation is normal we conveniently ignore it? 'Promise is a bourgeois prejudice'—if we act on those lines—society would become impossible, good government would become impossible, and nobody will have faith in the word of this Government. I would therefore place it for the consideration of the House whether it is proper for us to stick to our promise and pass the clause in the shape it is put before us or to yield to what some would think is the rather fashionable leftism of some hon. gentlemen in this House.

Shri Naziruddin Ahmad: May I seek a clarification from the hon. Member? Are not the rights, privileges and dignities of a Ruler described in article 362, which are relied upon by the hon. Member, conditional upon being within the ambit of clause (1) of article 291?

Shri B. K. P. Sinha: The word 'covenant' in article 291 refers to a certain

type. This clause, in exclusion to that type of covenant, refers to another type of covenant. Article 362 refers to the fact of the covenant and not to the nature of the covenant—the existence of the covenant is referred to in article 362. The nature of it need not be the same as is contemplated by article 291. The nature may differ and that nature as laid down in article 362 is different.

Dr. Ambedkar: I do not think it necessary for me to say anything, on the point raised by my friend. I would only like to observe this: I do not know, Sir, whether you were present in the House when the hon. Member raised this very question and it was dealt with very fully by the hon. Speaker and I should have thought that although we have not expressly stated in the rules of business that we should observe what is actually the *res judicata* rule, I think that that rule in some form ought to be observed by this House in order to save the time of the House and the same point being taken up repeatedly over again.

Mr. Deputy-Speaker: I agree with the hon. Law Minister. When I said the same matter was disposed of yesterday by the hon. Speaker and the hon. Member who raised the objection said that he had new points or arguments to urge, I was waiting with very great patience and I have not been able to see any new point in this. Articles 361 and 362 were mentioned yesterday. We follow the precedents and there is absolutely nothing new.

Shri Raj Bahadur: Is it your ruling, Sir.

Mr. Deputy-Speaker: If strictly the rule of *res judicata* is to be applied this is about the Civil Procedure Code and that was about the Criminal Procedure Code. All that I would say is that the same matter arises in some other connection, and we very often follow precedents. Apart from that the hon. Member who just spoke before the hon. Minister referred to article 366 and definition (22), and that makes it clear. We have already entered into covenants in the Constitution itself. If the aid of Parliament is invoked for doing something contrary to the Constitution, of course an objection can be legitimately taken. Article 366 goes into wider language. The Supreme Court itself cannot go into the many matters which have already been settled under the Sanad or guarantee given under the terms and conditions etc. Articles 362 and 291 have to be read together. The same covenant or agreement between the previous Government and

Government can relate to two different matters with respect to what ought to pertain to taxes, and the sums that have to be given is provided for in article 291. The other conditions regarding personal rights, dignities, etc. are provided for in article 362. The framers of this Constitution might as well have repeated the same thing here and said "where under any covenant or agreement entered into by the Ruler of an Indian State before the commencement of this Constitution etc.". For the sake of brevity they did not repeat them here. Therefore articles 291 and 362 are complementary and supplementary to each other. One relates to taxes and the other is with respect to personal rights, dignities etc. Article 362 says: "due regard shall be made" and this is only due regard. Hon. Members, both of whom who have spoken, and particularly the hon. Member who raised the objection, being a lawyer himself knows full well that under the Civil Procedure Code no suit for framing a scheme can be made or for the removal of a trustee. That can be done with the consent of the Advocate General. Under Section 197 of the Criminal Procedure Code, if complaints are filed against officers, sanction has to be obtained and particular officers are clothed with the power. Parliament has framed a number of controls and it is only the District Magistrate who can lay a complaint. This is ordinary procedure and all this is to avoid vexatious complaints and quite in keeping with the terms and guarantees that have been given, and far from encouraging it only keeps up what has been done before. Particularly in view of the fact that the Constitution is not opposed to it and it definitely empowers Parliament to accept this and as the hon. Speaker ruled in a similar matter yesterday, I think it is not for the Speaker to rule out any particular portion. If in spite of what has been said on both sides here and the justification for this provision, the House is of the opinion that this ought not to be passed and that it is illegal, it is for the House to accept or reject it. Personally, I do not find anything wrong in this measure. It is not *ultra vires*. It is quite in keeping with the Constitution.

Shri Raj Bahadur: I beg to move:

(i) In clause 12 in the proviso to the proposed new section 84 of the Code of Civil Procedure, 1908, for "Ruler" substitute "Head".

(ii) In clause 12 in the proposed new section 85 of the Code of Civil Procedure, 1908, for "Ruler" wherever it occurs, substitute "Head".

(iii) In clause 12 in the proposed new section 86 of the Code of Civil Procedure, 1908, for "Ruler" wherever * it occurs, substitute "Head".

(iv) In clause 12 in the proposed new section 87 of the Code of Civil Procedure, 1908, for "Ruler" wherever it occurs, substitute "Head".

[MR. SPEAKER in the Chair]

The object of these amendments is to make a distinction between the head of a foreign State and the Ruler of a former Indian State as mentioned in the proposed Section 87B and it is necessary that we should use the words "Head" or "the Head of a Foreign State" in Sections 85 and 86. Otherwise it is likely to cause some amount of confusion. Apart from that it is rather unusual to use the word "Ruler" in reference to a particular head of a foreign State. If my amendment were to be accepted, then clause (b) of proposed Section 87A would become redundant and that could be eliminated. It is no use our mentioning the word 'Ruler' in so many places and then defining the word 'Ruler' as the head of a State. Instead of this, why not put the words "the Head of a State" in the beginning and do away with the definition itself? So my submission is that it is not only a formal matter but it is a matter of principle and in order to distinguish and discriminate between two types of Rulers which are contemplated under the two Sections, 85 and 86 on the one hand and Section 87A (b) on the other, it is necessary that the word 'Head' should be used instead of the word 'Ruler' in Sections 85 and 86.

Mr. Speaker: Amendments moved:

(i) In clause 12 in the proviso to the proposed new section 84 of the Code of Civil Procedure, 1908, for "Ruler" substitute "Head".

(ii) In clause 12 in the proposed new section 85 of the Code of Civil Procedure, 1908, for "Ruler" wherever it occurs, substitute "Head".

(iii) In clause 12 in the proposed new section 86 of the Code of Civil Procedure, 1908, for "Ruler" wherever it occurs, substitute "Head".

(iv) In clause 12 in the proposed new section 87 of the Code of Civil Procedure, 1908, for "Ruler" wherever it occurs, substitute "Head".

Dr. R. U. Singh: When the general discussion on the motion for consideration was on, I raised the same point and the hon. Law Minister was pleased to say that the word 'Ruler' is used in some of the sections of the Civil Procedure Code under discussion. I have looked through the various sections of the Civil Procedure Code which are under discussion under clause 12 of the amending Bill, and I dare say that the word 'Ruler' is not used anywhere else. As I said earlier, it is only the subtitle that uses the word "Foreign Rulers". In the sections themselves the word 'Ruler' is not used. 'Ruling chiefs' may have been used because this term was in vogue in this country or some such term may have been used, but I dare say, Sir, the term 'Ruler' has not been used.

As the provisions of the Civil Procedure Code stand, it was not necessary to define the term Ruler. The point that was made by me was that it has been done unnecessarily and I reinforce that argument by saying that when we are dealing with questions of International Law, we might use terminology which is familiar to International Law. I observe that the term "Ruler" is not used. The words used generally are, "Head of a State" or "Sovereign", "Foreign State" or "Foreign Sovereign". I do think that Government have taken pains unnecessarily to introduce the term "Ruler". I do feel that if the word 'Head' only is substituted now, because they have re-arranged the section and framed the thing in such a manner, some of the clauses will become clumsy. In some places 'Head of the State' will have to be used, in some places 'Head' only will do. Therefore, while sticking to my original point of view, I observe that it is unhappy that the term "Ruler" has been used. I think the clumsy phraseology used in the amending Bill may be allowed to stand. Or if that is not to stand, then, in some places, the word "Head" has to be used and in others, the term "Head of a Foreign State" has to be used, because the draftsmen have somehow re-arranged the clauses in such a manner that there is no escape from this position.

Dr. Ambedkar: I am really at a loss to understand why my hon. friends are unhappy over the phraseology that has been used in this Bill. My hon. friend Mr. Raj Bahadur says that it is better to distinguish Foreign Rulers from Indian Rulers by giving them a different name. Supposing that was true, would it not be necessary again to define "Head of a State".

Shri Raj Bahadur: No, Sir.....

Dr. Ambedkar: In the United States of America, there is the President; in Great Britain, there is the King; in Switzerland, there is some other machinery to represent the State. If the facts are various, you will have to have a definition of "Head of State".

Another hon. Member says that he has examined the provisions of the Civil Procedure Code to which I made reference in the morning. He thinks that the words that we have used in this amending Bill do not occur there. I hope he has got a copy of the Civil Procedure Code in front of him.

Dr. R. U. Singh: I have got it here.

Dr. Ambedkar: Please look up the heading of section 83.

Dr. R. U. Singh: That I stated earlier.

Dr. Ambedkar: The heading is, "Suits by Aliens and by or against Foreign Rulers and Rulers of Indian States." I would like to draw his attention also to the fact that this amendment was made in 1937 by the Adaptation of Indian Laws Order. I cannot say that I am quite up-to-date in the matter of International Law and the phraseology that they use. But, I am quite content in saying that any one who made this Adaptation—and he will permit me to say that the adaptation was made by the India Office—must have been advised by some Parliamentary Lawyer, who could not have gone very much wrong in using the phraseology 'Foreign Rulers'.

Then, he says that the term 'Ruler of an Indian State' has never been used in sections 83 onwards. I quite agree that a variety of designations have been used. The Indian Rulers have been called Princes, Rulers, Chiefs and so on. But, what I want to submit is this. When the Constitution by several articles has given them a particular description, namely, 'Rulers of Indian States', is it permissible for the draftsmen to use a language other than the one that is used in the Constitution? The justification for using the words "Rulers of Former Indian States" is simply that that is the language that is used in the Constitution. We do not want to have any departure from the language used in the Constitution so as to leave it open to anybody like my hon. friend Mr. Naziruddin Ahmad to come up and say, "Well, this provision does not ap-

ply to the people to whom it is intended to apply".

Mr. Speaker: The question is:

In clause 12 in the proviso to the proposed new section 84 of the Code of Civil Procedure, 1908, for "Ruler" substitute "Head".

The motion was negatived.

Mr. Speaker: The question is:

In clause 12 in the proposed new section 85 of the Code of Civil Procedure, 1908, for "Ruler" wherever it occurs, substitute "Head".

The motion was negatived.

Mr. Speaker: The question is:

In clause 12 in the proposed new section 86 of the Code of Civil Procedure, 1908, for "Ruler" wherever it occurs, substitute "Head".

The motion was negatived.

Mr. Speaker: The question is:

In clause 12 in the proposed new section 87 of the Code of Civil Procedure, 1908, for "Ruler" wherever it occurs, substitute "Head".

The motion was negatived.

Dr. R. U. Singh: I beg to move:

In clause 12, omit the proposed new section 87B.

I touched this point briefly when the consideration motion was before the House and therefore, I will not repeat those arguments; but I shall certainly refer to the points which I think ought to be referred to.

I must say that I wanted an assurance from the hon. Law Minister as to the extent of the immunity as also regarding the duration for which immunity is to continue. On the question of the nature of the immunity, or the extent of immunity, the hon. Law Minister's reply was not very unsatisfactory though it was, I must say, not quite satisfactory. The hon. Home Minister, yesterday, when a similar motion was being considered, said that Government would be interested only in seeing that a *prima facie* case was made out and if a *prima facie* case was made out, sanction would certainly be given because that would ensure that the suit would not be vexatious or frivolous. The hon. Law Minister has said, that permission would be given in the case of a *bona fide* claim. I take it that two Members of the Government of India have used different

words, but in the same sense. If the hon. Law Minister deems it fit to say that he has meant the same thing, I shall feel extremely happy.

On the question of the duration of the immunity, however, I must say frankly that a satisfactory reply has not been given. The hon. the Law Minister has been non-committal, and has, if I may respectfully say so, evaded a direct answer to the question. I raised the plain question as to how long was the immunity to continue. Will it be for the lifetime of the present Ruler or will it continue to his successors also? The terms of some of the covenants that I have seen indicate that the privileges etc. will continue to the successors also. If that is so, as I believe would be the case, unless Parliament intervenes and amends the enactment, I am bound to say that it is extremely unsatisfactory. Government's position in this case should be known to the House. What is it that they have actually in view? Do they want to continue the immunity for the lifetime of the present Rulers or do they want them to continue in terms of the various covenants? I must say that I am not very much bothered about the constitutional aspect of certain of the questions, as to whether article 291 and article 362 should be read in this manner or that. It is enough for me to know that certain guarantees have been given by the covenants which have been entered into by the Rulers and the Government of India, and the Government of India have given them certain assurances. But what are these assurances by which we are supposed to be bound? Article 362 states that "due regard shall be had to the guarantee or assurance given under any such covenant or agreement". These terms indicate that perhaps the Government of India did not wish when giving the assurances, at least that the Constituent Assembly did not perhaps believe that these assurances could be continued for an indefinite length of time, because otherwise, it would have been said that the assurances given shall be binding. That would have been the phraseology used. But the terms used are "due regard shall be had" which means that it is open to a legislative body either to keep them for a period of ten years or for the lifetime of the present Rulers. The hon. the Law Minister has not said anything specific in this regard and I do hope he will deem it fit to do so.

A word about the immunity of the Head of the Indian Republic and the immunity of the various States in

[Dr. R. U. Singh]

Parts A and B. Article 261 refers to these immunities, and as I said earlier, my difficulty is that I do not know the extent of these immunities. In article 361 (4) it is said:

"No civil proceedings in which relief is claimed against the President, or the Governor or Rajpramukh of a State, shall be instituted during his term of office in any court in respect of any act done or purporting to be done by him in his personal capacity..." unless a certain notice has been given to the President etc.

That means the President of the Indian Republic can be sued provided the requirements contained in article 361 (4) are satisfied. But so far as the immunity of the Rulers of the Indian States is concerned, we do not have any such assurance from the Law Minister, in regard to things done even in their personal capacity. We are concerned with that aspect of the question. It has not been said that a certain amount of notice would be sufficient or some such thing. The immunity now sought to be conferred on them is much greater than the immunity conferred on the Head of the Indian Republic, as also the Heads of the various States of the Union. And if Government would indicate their mind and their policy in this regard, as to the duration of the immunity and the extent of that immunity—I dare say it ought not to be very wide—it would be extremely nice indeed.

Dr. Ambedkar: Before recess, I was also called upon to answer some of the questions which have been raised by my friend. I think I gave replies to those which I thought one could very safely give, and I do not know that I have anything further to add to what I have said. All that I would like to say now is this. My hon. friend if he will forgive my saying so, seems to lack sufficient imagination.

Shri R. U. Singh: All lawyers do not have much of it.

Dr. Ambedkar: Lawyers sometimes have very long imagination. If he had sufficient imagination he should have realised the fact that the Constituent Assembly very definitely and very rightly said that whatever was included in the covenant made before a certain date, matters contained in it were not justiciable. Now, I think that was a very great protection and a very important fact. It means that Parliament or Government is free to make any change it likes, notwithstanding the fact that the matters were mentioned in the covenant. That brings

sq, I think the House, at any rate, should feel satisfied that the future is in no way closed or dark. I do not think that anybody would expect me to say anything more than that.

Mr. Speaker: The question is:

In clause 12, omit the proposed new section 87B.

The motion was negatived.

Mr. Speaker: The question is:

"That clause 12 stand part of the Bill."

The motion was adopted.

Clause 12 was added to the Bill.

Clauses 13 to 18 were added to the Bill.

Clause 19.— (Special Provisions etc.)
Amendment made:

In clause 19, omit "Code of" occurring in line 2.

—[Dr. Ambedkar]

Clause 19, as amended, was added to the Bill.

Clause 20 was added to the Bill.

Clause 1.— (Short title etc.)
Amendment made:

In sub-clause (1) of clause 1, for "1950", substitute "1951".

—[Dr. Ambedkar]

Clause 1, as amended, was added to the Bill.

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

Dr. Ambedkar: I beg to move:

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

Mr. Speaker: The question is:

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

The motion was adopted.

PART B STATES (LAWS) BILL

The Minister of Law (Dr. Ambedkar): I beg to move:

"That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration."

The Bill is a very simple one...

An Hon. Member: As all other Bills are.

Dr. Ambedkar: Much simpler than the others. The object of the Bill is this. There are certain Acts passed by the Central Legislature which on account of the jurisdiction formerly exercised by the Central Government were confined in their operation to Part A States only. Part B States (formerly called the Indian States) which were sovereign and independent,

had their own laws which might be compared to the laws passed by the Central Legislature under Lists I and III. Now this Parliament has obtained jurisdiction over the territories covered by Part B States so far as Lists I and III are concerned. There are already in existence a large number of Acts passed by the Central Legislature covering the field of Lists I and III, which on account of their territorial limitation did not apply to Part B States. It is for this purpose that this Bill has been brought forward.

Hon. Members will see that to this Bill is added a Schedule giving the list of Acts which it is proposed under the powers given by this Bill to be extended to Part B States. There are altogether 135 Acts, so far as I have computed them, which are sought to be extended to Part B States.

While seeking to extend the Central Acts to Part B States it is felt that these Acts themselves require some small amendment according to the views of the various administrative departments of the Government of India which are working these Acts. Consequently the occasion which now exists for the purpose of extending these 135 Acts is also utilised for the purpose of making certain amendments in these Central Acts, so that when this Bill is passed not only these Acts will come into operation in Part B States but they will also come into operation in the form in which they are modified by the provisions contained in the various Acts in the Schedule as mentioned therein. I do not think any controversy is likely to arise over the principle of this Bill.

There are one or two omissions which we have discovered since and I propose to move amendments in order to bring them under this Schedule.

Mr. Speaker: Motion moved:

"That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration."

Shri Sivan Pillay (Travancore-Cochin): I rise to support wholeheartedly this Bill. This is a legislation which has been long overdue. It is only a stage in the further unification of India which was so ably taken in hand by our beloved Sardar. I really look forward to the time when even these distinctions such as States belonging to Part A, B or C are also done away with in the Constitution. There seems to be a feeling of what I may call 'superiority complex' in the minds of many of my hon. friends in

this House who come from Part A States.

An Hon. Member: Not at all.

Shri Sivan Pillay: They think that merely because it is put in the Schedule of the Constitution as Part B it is bound to be a medieval State. I am afraid that they are reminded of their privileges as Class A prisoners in British Indian jails where their less fortunate brethren were in B class. I want only to tell them that there are many Part B States which have really gone ahead of Part A States in many matters. For the sake of uniformity we who belong to Part B States gladly accept this kind of legislation by the Centre in matters which are in the Concurrent List of the Constitution.

When I read the Statement of Objects and Reasons it struck me that the words "for the purpose of improving the administration of Part B States and for placing them as far as possible on a par with Part A States, it is necessary....." are rather not very warranted, at least in certain cases.

Shri Sidhva (Madhya Pradesh): Is it not a fact?

Shri Sivan Pillay: It would have been better if it read "for the purpose of uniformity in the administration of Part A and Part B States."

Apart from that I have only one or two words to say about the Acts included in this amending Bill.

The Indian Penal Code of 1860 is sought to be made applicable to Part B States. Speaking of the State to which I have the honour to belong, the Travancore Penal Code, which is almost the same as the Indian Penal Code, had been in operation in that State for long. It was only about two or three years ago that our Rajpramukh (the Maharaja of Travancore) promulgated a proclamation abolishing capital punishment provided in the sections of that Code corresponding to sections 194, 302, 303, 305, 307 and 396 of the Indian Penal Code. Whatever the opinions of hon. Members here may be, we consider that really as a progressive step. Yesterday the hon. Home Minister said that even though some Part B States may have made some experiments in progressive legislation, for the sake of uniformity they may do well to do some sacrifice. In our case we are unable to accept that advice, because it involves the sacrifice of the lives of human beings, though it be that of murderers. Therefore such sort of *narabali* should not be expected from us for the sake of

[Shri Sivan Pillay]

uniformity. I want the hon. Law Minister to find a way out of this.

I had a look into the Constitution to see whether it gives a solution to this kind of a situation. The answer given by the Constitution seems to be article 254, which reads:

"254. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void."

Clause (2) of article 254 reads:

"Where a law made by the Legislature of a State specified in Part A or Part B of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State".

Therefore, I think that provision for reserving for the consideration of the President has to be made in this Act if the abolition of capital punishment which has been effected in our State has to be retained. Therefore, I have to ask the hon. Law Minister to make this matter clear. We have been informed by our State Government that it had correspondence on this matter with the Central Government and that the Central Government has assured the State Government that local amendments may be made by the State Legislature. But when I read through article 254 of the Constitution I do not find that the State Legislature has any right to amend the law like that. I would, therefore, like to have this position clarified by the hon. Law Minister and, if possible, provision may be made for this purpose.

Shri Shiv Charan Lal (Uttar Pradesh): By enacting this legislation a

very necessary step is being taken. So far there has been no similarity of laws as between the Part A and Part B States. And it is very essential that in all the States, falling under Parts A, B and C, the same laws should prevail. Not only that, the same codes should prevail and the same calibre of judges should be working in all the High Courts.

Coming to this Bill, it is not clear to me how you can amend the Acts given in the Schedule by just putting them under this Part B States Bill. The Schedule contains a lot of Acts and to each of those Acts there are several amendments. I think for giving a proper place to these amendments you shall have to bring separate Bills in the form of amending Bills for these laws. Simply including these Acts in the Schedule here will not be proper. Take, for instance, the Indian Penal Code mentioned in the Schedule as the second item. Throughout the Bill there is no indication saying that the Penal Code is being amended. Unless it is there or unless there is an Indian Penal Code amending Bill, I do not think the amendment of the Penal Code under this Schedule will be sufficient for the purpose. It may be sufficient for the purpose of bringing those amendments to the Part B States Laws Bill, but it will not be sufficient for the purpose of amending those Acts mentioned in this Schedule. That is my doubt and I think the hon. Law Minister will take this fact into consideration. Otherwise, I heartily support the Bill.

Dr. Ambedkar: With regard to the point made by my friend from Travancore-Cochin, the position is quite easy as I see it. There are some laws which are sought to be extended by this Bill which fall in the Concurrent List. Consequently, it would be open to any State in India to amend these laws in the manner that they wish to do. To take his illustration, namely, the Indian Penal Code, it is quite true that the Indian Penal Code sanctions death as one of the penalties. It is equally true, as he has said, that the Penal Code as it now operates in Travancore abolishes that penalty. Well, after the Indian Penal Code has been made applicable under this Act, it would be perfectly possible for the Travancore-Cochin legislature to pass an amending Bill and amend the Indian Penal Code in the way they wish to do. Consequently, so far as the laws which fall under the Concurrent List are concerned, all States in India which have the power to make laws will certainly make laws to suit their circumstances.

With regard to the point made by my other hon. friend, it seems to me that he has not read correctly the provisions of clause 3 of this Bill which says:

"The Acts and Ordinances specified in the Schedule shall be amended in the manner and to the extent therein specified".

Therefore, this Bill is both a Bill to amend and also to extend. Of course, he might say that this is a very inelegant method of legislation, but let him consider his plan of doing the thing. We will have to stay here and pass 135 different laws, first to amend and then to extend. I think it is desirable, although it may not be quite so straight or elegant, to adopt the summary procedure that has been adopted in this Bill, namely, both to amend and to extend. I do not think my hon. friend will have any quarrel after this explanation.

Mr. Speaker: The question is:

"That the Bill to provide for the extension of certain laws to Part B States, be taken into consideration."

The motion was adopted.

Clauses 2 to 6

Clauses 2 to 6 were added to the Bill.

Clause 7.—(Power to remove difficulties)

Amendment made:

In sub-clause (2) of clause 7, after part (b) insert:

"(c) specify the areas or circumstances in which, or the extent to which or the conditions subject to which, anything done or any action taken (including any of the matters specified in the second proviso to section 6) under any law repealed by that section shall be recognised or given effect to under the corresponding provision of the Act or Ordinance as now extended."

—[Dr. Ambedkar]

Clause 7, as amended, was added to the Bill.

The Schedule

Dr. Ambedkar: I was wondering whether all the amendments to the Schedule standing in my name may be taken as moved.

Mr. Speaker: Is the House agreeable to this course?

Hon. Members: Yes, Sir.

Shri Shiv Charan Lal: I would like to have clarification on one point before you put these amendments to vote. On page 4 of the Schedule, under the Government Savings Banks Act, 1873, it is said that that Act would not apply to any deposits made in the Anchar Savings Bank of the State of Travancore-Cochin. It is not clear to us why it won't apply to this Bank.

Dr. Ambedkar: I am afraid it would be very difficult for me to reply to the various queries. I should therefore like to explain my position. This Bill is like a supplementary estimate which the Finance Minister puts before the House, although the actual responsibility of defending the different estimates falls upon the different Ministers who are responsible for them. I am merely sponsoring what the other Departments desire should be done. I am sorry that the Finance Minister is not here, otherwise, he might have explained to my friend exactly why he wants this particular amendment to be made. All the same, I hope that my friend will agree that this must have been done after very deliberate and mature consideration.

Mr. Speaker: I do not wish to raise any objection, if the House has none, but this is not a satisfactory procedure. An hon. Member is entitled to know before he votes what he is called upon to vote and why. Even if the position be like the supplementary estimate, it should be the practice to append some kind of notes for the benefit of hon. Members explaining the reasons why they are called upon to vote for a certain proposition.

Dr. Ambedkar: It is a very valuable suggestion. We shall try and follow it up.

Mr. Speaker: What is the present position of Shri Shiv Charan Lal? Is he agreeable to vote for it without knowing the reasons?

Dr. Ambedkar: We shall insure any risk, if he is undergoing one.

Mr. Speaker: It does not mean that he doubts the correctness or the soundness of the proposition, but still as a Member he is entitled to know the reason.

Shri S. V. Naik (Hyderabad): On page 5 of the list of amendments to the Schedule, under the heading "Currency Ordinance, 1940" after section 2, certain temporary provisions

[Shri S. V. Naik]

with respect to Hyderabad one-rupee notes are made. I would like to know what will be the position in regard to the other currencies that are prevalent in the Hyderabad State.

Dr. Ambedkar: I shall have to answer in the same way that I have done before. I can inform the hon. the Finance Minister and he will probably communicate to the hon. Member what is the answer.

4 P.M.

I have one more amendment to the Schedule. I request that that may also be taken as moved.

Amendments made:

1. In the Schedule, under the heading "The Indian Oaths Act, 1873", for the item relating to Section 1, substitute:

"Section 1.—For "except Part B States" substitute "except the States of Manipur and Jammu and Kashmir".

2. In the Schedule, after the entry relating to "The Partition Act, 1893", insert:

"The Livestock Importation Act 1898 (IX of 1898)

Section 1.—For sub-section (2) substitute:

'(2) It extends to all Part A States, Part C States and the States of Saurashtra and Travancore-Cochin'."

3. In the Schedule, under the heading "The Indian Coinage Act, 1906", for the last item substitute:

"After Section 23, insert the following, namely:

"24. *Temporary provisions with respect to certain Part B States' Coins.*—Notwithstanding anything in section 6 of the Part B States (Laws) Act, 1951, coins of such description as at the commencement of the said Act were in circulation as legal tender in any Part B State shall continue to be legal tender in that State to the like extent and subject to the same conditions as immediately before the commencement of the said Act for such period, not exceeding two years from such commencement, as the Central Government may, by notification in the Official Gazette, determine."

4. In the Schedule, under the heading "The Indian Companies Act, 1918",

after the item relating to the new section 2B, insert:

"Section 144.—After sub-section (1) insert:

(2) Notwithstanding anything contained in sub-section (1) but subject to the provisions of rules made under sub-section (2A), the holder of a certificate granted under a law in force in the whole or any portion of a Part B State immediately before the commencement of the Part B States (Laws) Act, 1951, entitling him to act as an auditor of companies in that State or any portion thereof shall be entitled to be appointed to act as an auditor of companies registered anywhere in that State.

(2A) The Central Government may, by notification in the Official Gazette, make rules providing for the grant, renewal, suspension or cancellation of auditors' certificates to persons in Part B States for the purposes of sub-section (2), and prescribing conditions and restrictions for such grant, renewal, suspension or cancellation."

5. In the Schedule, after the entry relating to the "Indian Copyright Act, 1914", insert:—

"The Cinematograph Act, 1918 (II of 1918).

Section 1.—In sub-section (2), omit 'Hyderabad and'."

6. In the Schedule, after the entry relating to "The Indian Bar Councils Act, 1926", insert:

"The Child Marriage Restraint Act, 1929 (XIX of 1929).

Section 1.—In sub-section (2), for 'except Part B States' substitute 'except the State of Jammu and Kashmir'."

7. In the Schedule, under the heading "The Petroleum Act, 1934", in the item relating to section 1, for "For" substitute "In sub-section (2), for".

8. In the Schedule, after the entry relating to "The Employment of Children Act, 1938", insert:

"The Motor Vehicles Act, 1939 (IV of 1939).

Throughout the Act, unless otherwise expressly provided, for 'the States' substitute 'India'.

Section 1.—(a) In sub-section (2), for 'except Part B States' substitute 'except the State of Jammu and Kashmir'.

(b) for sub-section (3), substitute:—

'(3) Chapter VIII shall not have effect in any Part B State to which this Act extends until the Central Government, by notification in the Official Gazette, so directs, and notwithstanding the repeal by section 6 of the Part B States (Laws) Act, 1951, of any law in force in that State corresponding to the Motor Vehicles Act, 1939, the corresponding law, in so far as it requires or relates to the insurance of motor vehicles against third party risks shall, until Chapter VIII takes effect in that State, have effect as if enacted in this Act.'

Section 2.—(a) after clause 9 insert:

'(9A) 'India' means the territories to which this Act extends.:

(b) omit clause (29A).

Section 9.—(a) In sub-section (2), for 'in any Part B State', substitute 'in the State of Jammu and Kashmir';

(b) in sub-section (4),—

(i) for 'any Part B State or', substitute 'the State of Jammu and Kashmir or any', and

(ii) for 'in any State' and 'in any such State' substitute 'in the State'.

Section 28.—(a) In sub-section (2), for 'any Part B State' substitute 'the State of Jammu and Kashmir';

(b) in sub-section (5),—

(i) for 'any Part B State or' substitute 'the State of Jammu and Kashmir or any';

(ii) for 'registration in such State' and 'registration in any State' substitute 'registration in the State'; and

(iii) for 'issued in any such State' substitute 'issued in the State'.

Section 42.—In sub-section (3),—

(i) in clause (a), for 'the Government of a Part A State' substitute 'a State Government';

(ii) in clause (h), for 'any Part B State or' substitute 'the State of Jammu and Kashmir or any'.

Section 133.—For 'the Legislature of a Part A State' substitute 'the State Legislature'.

The Sixth Schedule.—For the table, substitute the following:—

'Assam	...	AS
Bihar		BR
Bombay		BM, BY
Madhya Pradesh		CP, MP
Madras		MD, MS
Orissa	...	OR
Punjab	...	PN
Uttar Pradesh	...	UP, US
West Bengal		WB, WG
Hyderabad		HT, HY
Madhya Bharat		MB
Mysore		MY
Patiala and East Punjab States Union		PU
Rajasthan	...	RJ
Saurashtra	...	SS
Travancore-Cochin		TC
Ajmer		AJ
Bhopal		BS
Bilaspur		BL
Coorg	...	CG
Delhi	...	DL
Himachal Pradesh	...	HI
Kutch	...	KH
Manipur	...	MN
Tripura	...	TR
Vindhya Pradesh		VP
Andaman and Nicobar Islands		AN' "

9. In the Schedule, under the heading "The Protective Duties Act, 1946", omit the last item relating to section 2.

10. In the Schedule, omit the entry relating to the Employees' State Insurance Act, 1948, (XXXIV of 1948).

11. In the Schedule, omit the entry relating to "The Transfer of Detained Persons Act, 1949 (XLV of 1949)".

12. In the Schedule, under the heading "The Currency Ordinance, 1940", after the item relating to section 2, insert:

"After section 2, insert the following, namely:—

'2A. Temporary provisions with respect to Hyderabad one-rupee notes.—Notwithstanding anything contained in section 6 of the Part

[Dr. Ambedkar]

B States (Laws) Act, 1951, notes of the denominational value of one rupee which at the commencement of the said Act were in circulation as legal tender in the State of Hyderabad shall continue to be legal tender in that State to the like extent and subject to the same conditions as, immediately before the commencement of the said Act and for such period, not exceeding two years, from such commencement, as the Central Government may, by notification in the Official Gazette, determine."

13. In the Schedule, insert the following as the first entry:

"The Caste Disabilities Removal Act, 1850 (XXI of 1850).

Long title and preamble.—For the territories subject to the Government of the East India Company' substitute 'India'.

Section 1.—(1) For 'the territories subject to the Government of the East India Company' substitute 'India' and for 'in the courts of the East India Company and in the courts established by Royal Charter within the said territories' substitute 'in any court'.

After section 1, add the following section, namely:—

1. *Short title and extent.*—(1) This Act may be called the Caste Disabilities Removal Act, 1850.

(2) It extends to the whole of India, except the State of Jammu and Kashmir."

—[Dr. Ambedkar]

The Schedule, as amended, was added to the Bill.

Clause 1.—(Short title etc.)

Amendment made:

In sub-clause (1) of clause 1 and elsewhere in the Bill where there is a reference to the Part B States (Laws) Act, 1950, for "1950" substitute "1951".

—[Dr. Ambedkar]

Clause 1, as amended, was added to the Bill.

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

Dr. Ambedkar: I beg to move:

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

Mr. Speaker: Motion moved:

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

कॉन्टिन एं पी० सिंह : अध्यक्ष महोदय, मैं एक विषय की ओर ध्यान दिलाना चाहता हूँ और वह यह है कि Statement of Objects and Reasons में यह लिखा गया है कि for the purpose of improving the administration तो मैं इसका विरोध करता हूँ। गोकि यह उसका कोई पार्ट नहीं है, और इसके अन्दर कोई amendment नहीं भेजा जा सकता था।

[Capt. A. P. Singh (Vindhya Pradesh): Sir, I would like to draw your attention to one point. The Statement of Objects and Reasons lays down that "for the purpose of improving the administration", and as such I oppose it; although this is not a part of it and so no amendment could be put forth in this connection.]

Mr. Speaker: Order, order. The hon. Member is too late. I may inform him, however, that a protest on this same point was raised by another Member of this House previously.

Dr. Ambedkar: I would like to apologise, Sir.

Mr. Speaker: The question is:

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

The motion was adopted. 7

✓ PREVENTIVE DETENTION (AMENDMENT) BILL

The Minister of Home Affairs (Shri Rajagopalachari): I beg to move:

"That the Bill further to amend the Preventive Detention Act, 1950, be taken into consideration."

I regret very much that I have to move for continuing the life of the Preventive Detention Act which is due to expire on the 1st of April 1951. As stated in the Statement of Objects and Reasons, we have given very careful consideration to the whole situation to meet which this law was enacted by this House, and after examination we have come to the conclusion that it is necessary to extend its life, I would say, at least for a period of one year.

[MR. DEPUTY-SPEAKER in the Chair]

It is no use pretending that we have overcome our difficulties and that this

kind of authority which Government seek at the hands of Parliament can be dropped on such and such a day. I am afraid that while we improve conditions, the enemy, if I may so call the opposing bloc of forces, is also alert and changing his tactics and improving, from his own point of view, his tactics and exploiting the situation as it arises from time to time. With the advanced technique that we have to cope with, we have to start every now and then with fresh defensive technique and the thing is progressing in that way.

Let there be no mistake that the Government of India, as now constituted, or this Parliament which gives authority to the Government of India has any intention of dealing with political differences through any Act or measure of this nature. It is possible to utter slogans, to convert every fundamental principle into a technique by manipulating the situation. But if anyone were to examine the situation fairly, there can be no doubt in the mind of any impartial person that the Government of India, that Parliament as constituted now, or the legislatures of the various States, none of them is interested in utilising the powers such as are sought to be derived through this measure for political purposes. All that we desire is security against groups that work in secrecy and through what may be called trickery to produce a state of things in which futilely and foolishly these people believe they can seize power through force.

It is possible to confuse ignorant people abroad in the world that the Communists are so desirous of peace, peace all over the world, that they feel impelled to hold meetings for this cause of peace in international relationship of the various nations, near industrial centres and in out-of-the-way places. The cause of civil liberty and all other such colour could be given to the main object, which is to exploit every available situation, every available enunciation of principle, every available grievance, for the purpose of creating and developing a condition which, in their opinion, will help the seizure of power otherwise than by elections.

If we had intended to utilise measures of this kind for purpose of attaining political objectives, nothing would have been easier for this Parliament, or for Government which is in "conspiracy" with this Parliament to continue their own life through very simple means, obtaining authority from the Constituent Assembly or otherwise. But we have been in a hurry to pass the Constitution based

on adult suffrage and open expression of views of people of all classes and creeds and through such adult franchise to form a Parliament; we have been in a hurry, as far as our difficulties will permit us, to bring into existence a new Parliament based on this Constitution. Members here vie with one another in laying stress—emphatic stress—upon every general principle of civil liberty, whenever any measure comes before them. There can be no doubt as to our motives. I say "our" in this connection because the attack is not only on Government, but on Parliament itself in reference to this matter by those who feel the weight of these measures when used against them.

I was coming here in a hurry for I heard that Dr. Ambedkar was able to get through two solid Bills in this House as I had not at all anticipated last evening. It seems to me that people treat me much worse than they treat Dr. Ambedkar.

The Minister of Law (Dr. Ambedkar): I am a Harijan; you are not.

Shri Rajagopalachari: May these special concessions continue for ever and ever without maintaining the distinctions for ever and ever.

Please excuse me, Sir, for this digression. While I was just getting in a hurry into my car to run up here to meet the situation, a paper was placed in my hands by my faithful Secretary. The House will be interested to hear it, because I am sure it will appear in the Press tomorrow.

"The Preventive Detention Act of 1950 expires on 1st of April next. Arrangements are being made for repassing the Act with minor changes in the coming session of the Parliament. It is being said that this has to be done as the Act of 1950 had to be passed in a hurry and it is necessary to remove the blemishes due to that hurry. This is not true. When that Act said that 'it shall cease to have effect on the 1st day of April 1951' it was represented to the citizens of India that it meant what it said. That is, though a drastic measure attacking liberty of citizens was being enacted no one need worry over much as the law was a temporary one lapsing within some thirteen months. Of course, excepting the most gullible, people felt that the law was not going to be temporary, and the representation was an attempt to make people keep quiet. Leaders of a Government

[Shri Rajagopalachari]

who find necessary the arbitrary power of keeping citizens, men and women, detained without trial in time of peace are not the people willing to abandon that power after a year. For though conceived ostensibly in the interest of public order and security of the State the power is also handy in fighting political opponents. With the docile Parliament at Delhi it is not to be expected that the repassing of the Act will meet with any opposition worth the name (I hope so) or even evoke any serious discussion, and the Act will be passed as a matter of course. But even then the citizens of India have a duty to perform. This Act is not only dangerous but is a stigma on Free India. One of the Judges of the Supreme Court, who upheld the Constitutional validity of that Act nevertheless said that no country in the world had a law like this, viz., keeping people confined without trial in times of peace. In fact a Government which requires such a law for governing in times of peace is not a civilized Government. The Citizens of India must express their opinion unequivocally on this law, and also their opinion of the members of Parliament who would vote in favour of re-enacting such a law.

Signed Atul Chandra Gupta, President, Civil Liberties Committee; Hemanto Kumar Basu, President, North Calcutta Civil Liberties Committee; Mrinal Kanto Basu, General Secretary, S.T.U.C.; Tridib Choudhury... (and so on and so on)... and thirty other eminent lawyers of the Calcutta High Court".

I would not have taken up the time of the House in reading a paper of this kind but for the reason that we ought really to take up a bolder stand in all fields. Whether we pass this measure here as it is or in an amended form, or whether we even reject the measure, we are not going to fulfil our obligations to this country if we do not take up a bolder stand with reference to any movement, whatever its political creed might be, which works in secrecy, through violence, through trickery and through exploitation of grievances, not for removing the grievances but for other political purposes. (Hear, hear). We can do so only if we take up our stand boldly and do not fall into the trap of 'civil liberties' or 'peace movements', or whatever other colour may be given to it, and if we have with

our intelligence examined and found it only an auxiliary to a secret and treacherous movement to subvert order in this country, we stand boldly against it, and whether judge, merchant, clerk or politician we have the courage to say "I shall not preside over your meeting because I know the object of your meeting is so and so". As long as we wish to cultivate popularity at the cost of intelligent judgment I submit we are in danger. Therefore I thought I had better read this extremely disrespectful document. I say 'disrespectful' because it attacks the Parliament of a country in which these people are enjoying the privileges of civil liberties and because of the language employed. Whatever may be the errors in electing our Members, whatever may be the defects in the constitution of the present Parliament, it is Parliament and I submit that it is not a healthy thing for us to tolerate such expression of opinion towards Parliament or, I may claim even, towards Government. Because, the Government is responsible to Parliament and is kept in office through Parliament. We may criticize one another. We may enunciate any opinion. But it is not right to be fundamentally disrespectful towards the institution on which the peace of the country depends.

Now I have read this. It contains all that can probably arise as a matter of doubt in our own minds when we proceed from clause to clause. I have no objection whatsoever to examining those points. But it is wrong to proceed with a bias such as is contained here that Parliament is a weak Parliament, all the Members of it are weaklings, and the citizens of India are asked to condemn such weaklings. We shall have to be on guard against being misled by intimidatory tactics of this kind. I have no other name for documents of this kind. It is intimidatory tactics.

We have taken over from the British Government. It was an efficient Government. We have taken it over in full confidence that we will be able to rule this country. We cannot govern this country if we have fear in our hearts, if we have dishonesty in our hearts, or if we fear before the dishonesty on the part of other people. We should have neither dishonesty nor fear. Let us proceed straightforwardly. What is it we want? We want that those who have made it their creed to work secretly and through violence should have no place in the political organisations of our country. If we have any political

organisation which openly works, let them have the extremest different points of view from our own. We do not mind. And if they command a majority the people are entitled to be governed by those people. Such being the case what shall we do with these people who, practically by their own efforts, have made themselves into outlaws? There are people who are forced into crime by these people, by a strong group that works secretly. Ordinary people are forced into crime. Once a man becomes a criminal, he absconds, escapes and goes underground, and becomes for ever an outlaw, so to say. Even though his intelligence tells him it is wrong he cannot come back to society and must be there adding to their forces.

I have been in recent times in close touch with reports. I do not accept any and every report that comes. But there is no doubt in my mind that the technique which the Communists have adopted now is a teaching of secrecy and violence, a technique by which they get men to join their ranks by admitting them first and subsequently driving them into becoming criminal characters so that they cannot come back.

Now it is very nice to fix dates. It is very nice to say "we will release you on such and such proof not being given" and so on. We may say that this law is valid or invalid. It is easy for lawyers to argue that it is lawful or unlawful. And it goes on. We may try our best to finish up our work and tidy up things by 1st of April 1951. But it is not possible. If hon. Members will enquire they will see that there is a substantial number of these people still to be found. There are a substantial number of people who are under detention. And these people have to be released if a particular law terminates on a particular date. The High Courts are very rightly zealous. We are proud that even though these people have been appointed by Government they have the independence to declare our own laws invalid when they find that they are in their opinion invalid. We welcome such independence and we hope that that independence will grow. We may appear to fight against them. But we want them to be independent in mind and body, in politics and emotions. They should act independently. We like it. We do not grudge this independence. But we should be practical and each must express his own opinion and we should be helped to come to right conclusions.

When a body of people are in detention on a particular date and the law expires, we have to take suitable

measures if we feel it is not safe for the country to release them all at one time. It is necessary to provide for the situation. Men are appointed to look into their cases. They advise, and when a particular date has to be worked against, we have again to act in a hurry and we have to act over a number of cases. The courts naturally feel doubtful that when there are five hundred cases disposed of on a particular date and to all appearances they are disposed of on a single date. It would be right for the court to say: "so many cases are disposed of together; it must be because they want them to be disposed of and probably there has not been a fair enquiry". All this is true and we must take it into account.

That is why we have made proposals in this Bill for a number of improvements in the law as it stands even while we ask that the law should be renewed for a further period. Let me not be quoted when next time a Member in charge of this work moves any Bill for a further extension if he finds it necessary that I promised that it should end on 1st of April 1952, or anything like that. I do submit to the House that it is not an easy thing and this law may have to be renewed again when the period we now fix comes to a close. Let it be clearly understood that I make no commitments on behalf of Government because I do not see so much efficiency in our own Government and so much intelligence among our people from which we can hope that we will overcome this difficulty within a short time.

The most important provision that we propose is that the Advisory Boards that we constitute shall be binding upon Government. It is by far the greatest step that Government can take in a matter of this kind. Practically, therefore, we give, so to say, a summary trial for those persons who are concerned and we are bound by the award of the Boards that we constitute and we will constitute not only one Board in an area where probably there is only one Board working, but as many boards as will be necessary, so that expeditious justice may be done to those cases whenever a reference is made. We are also making another great advance. In the previous law Government reserved the right in a number of cases not to refer cases to the Boards. But here we say that every case shall be referred to these Boards. So that then, we start with two definite steps. We refer every case for the advice of these

[Shri Rajagopalachari]

Board and we get reports within the time that we prescribe and we give effect in every case to the advice that is given by the Board. More cannot possibly be done unless indeed we say that there shall be no such detention whatsoever and we wait for each crime to take place and for the crime to be detected and for the apprehended criminal to be put in court and evidence adduced, parties and lawyers heard and decided and before then there can be no imprisonment, which is the ordinary law. Barring that procedure, we cannot go beyond what we have proposed now. I myself must confess I would not have gone so far but my predecessor has prepared the Bill on these lines. In many matters he has been misunderstood and in this also he has been misunderstood. It was thought that he was a cruel man, a hard man and a man fond of power. Here he has prepared the Bill so that every case goes to the Advisory Board and in every case the decision of the Advisory Board is final. I make no claim for having made this proposal. This is entirely my predecessor's proposal, which I am supporting and placing before you with some apprehension in my own mind that it goes a little beyond the lines that I would myself have taken.

I do not think that I need go into any other matter at this stage.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Preventive Detention Act, 1950, be taken into consideration."

Shri Kamath (Madhya Pradesh): May I move my amendment for reference to Select Committee?

Prof. K. T. Shah (Bihar): There is an amendment in my name for eliciting public opinion which ought to go before Mr. Kamath's amendment.

Mr. Deputy-Speaker: The amendment for circulating will have preference over the amendment for Select Committee.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon".

I move this amendment which stands in my name, requesting that the Bill now placed before the House be circulated for eliciting public opinion with all the sense of responsibility that I feel in this matter, and

that I believe any other Member in this House must be feeling too. This is a matter so serious that Government have on their own declarations shown that they thought it best, in the first instance, to make of this a temporary measure. Even today when they come forward to ask for its renewal, they still make it a temporary measure for a year.

I was listening very carefully to the remarks that fell from the hon. and revered Minister to the effect that he gave no binding assurance on behalf of this Government—I hope he did not include his successors, if they should have to change as the result of the elections; and he gave no assurance on behalf of this Government that when the term now imposed for the continuation of this measure expires, Government may not come forward to demand its renewal or extension again. It was a remark which necessarily would make us furiously to think, those of us who believe in some ideals, notwithstanding the strictures that fell from the hon. Minister regarding being misled by slogans. Those of us who feel that slogans embody the essence of political, economic or even moral truths, would not be frightened by merely the accusation of being misled by slogans. It has been always the practice of those in authority, when they have no other ground to run down their opponents, to speak of them as being misled by "slogans." Slogans essentially are, not necessarily, at any rate, either untrue or misleading. They very often embody,—and those now sitting on the opposite benches should know it better than anybody else—great truths, such as the demand of the people for freedom, for civil liberties, which those in power may not be quite willing to accept, but which otherwise express almost the sub-conscious longing of all human beings for a measure of freedom and civil liberty of people living in a civilized society.

I confess that I was not prepared to hear this somewhat sarcastic remark about the place of slogans in public life from a veteran fighter for freedom, such as the hon. Minister opposite has been from such a deep thinker and scholar like him. It was therefore, all the more painful for me to have to point out, even at the risk of incurring his displeasure, that slogans are not necessarily to be disturbed because they are slogans. They are aphorisms; and being aphorisms, they very briefly contain truth. They embody the wisdom of ages; they embody the experience of generations,

countless in number. They ought not to be ridiculed or laughed out of court. Being well-versed as he is in the teaching of our ancient Shastras, the hon. Minister ought to be the last, if I may say so, to laugh or ridicule the value of Sutras in conveying in a pithy manner, the great truths of human civilization that in this country more perhaps than anywhere else have been embodied in such aphorisms, in such Sutras. In politics, circumstances may be new. The immediate effects of any given condition of a country at any given moment may be different, but the abiding principles or ideals remain unchanged. And these slogans try to give expression in the simplest, the most popular, the most easily intelligible form to those ideals, to those longings which people hungering for freedom, have in all countries in all ages all over the world sought.

I would not, however, dwell further upon the futility of ridiculing slogans and would come to the nature of this Bill that is placed before this House. So far as I understood the hon. Minister he said that the Bill was against those who work in secrecy, who pinned their faith to violence, who delight or operate through tricks—I think he used that word, and who, therefore, want to seize power, not through the normal door of open election, but through questionable means, questionable at least by those who may be in power at the moment. Those who are in power at any given moment necessarily must consider that anything which tends to endanger their position, that anything that tends to circumvent their power, must be subversive. The meaning of 'subversive' tends to be extended beyond its just limits when those in power seek to fortify their position by adopting legal measures, or, what I am tempted to say, measures in the guise of law which are a real menace to the growth and spread of freedom.

I do not myself subscribe to the particular group or class of whom the hon. Minister has spoken, and whom he supposes to be wedded to the doctrine of secret activity, to the aim of seizing power by violence, and not pinning their faith to the democratic process of election. But I must say two things. One is that secrecy, or working in secret, is not by itself a matter to be disparaged, a matter to be treated as something criminal, and a matter that must therefore be punished and repressed. Repression always breeds underground

work, and underground activity negatives the idea of free and open political fight, that civilisation such as we have been accustomed to, requires. It must be the experience, I venture to submit, of all Congressmen themselves how very often they have been driven themselves, or some of them.....

Shri Sidhva (Madhya Pradesh): That was for the purpose of attainment of freedom.

Prof. K. T. Shah: They also think in their own way that they are fighting for freedom.

Prof. Ranga (Madras): What is the repression from which you are suffering or anybody else?

Prof. K. T. Shah: The repression that you are suffering from is the one that only those that think you are right are right, and that anybody who happens to differ from you is not right.

Prof. Ranga: No, no.

Prof. K. T. Shah: That, however, is a suffering which I do not share, and I would regret if you should suffer from that. I must say that that is not a suffering that I share. However, the story is not unknown of many a hero of the Congress movement, who had, during the various *Satyagraha* movements in the past, to work underground and those are there today who have been honoured, accepted and welcomed as honourable colleagues, who had, as an hon. friend has just pointed out, fought for freedom underground, according to their lights. I know the story also of an eminent Member of this House, I think he was at any rate a Member of the previous Assembly, who, for eleven years, as he once declared in this House, was absconding against the then Government. I think he is well known to those high authorities that now rule this land. No one dare to question the honesty, integrity and patriotism of the persons who, sharing the more extreme views of those days, had recourse to tactics, or devices, which might perhaps not be regarded as perfectly democratic, at any rate, perfectly parliamentary. I venture, therefore, to submit that the mere fact that people have to work in secrecy, the mere fact that they are working in ways that do not meet with your approval, or that do not come to light, is by itself not to be objected.

The circular letter or communication that the hon. Minister read out, according to the names that he himself read out, seems to be signed not by communists, as far as I can see, but by people who are and have been, very good loyal Congressmen. Mr. Hemanta

[Prof. K. T. Shah]

Kumar Basu, whose name is the first name I heard is one of the pillars of the Congress in Bengal. I see no reason why people with those credentials, people with that past and background, should be labelled even by implication as undesirable citizens of this land, or likely to be working in methods that may not meet with your approval.

I must confess that there are many situations, there are many considerations happening today, in which the Government of the country and the party in power is concerned, that cannot but create strong opposition, sharp feelings of resentment, which, however, in the face of the law such as you have now, has no outlet, no means of expression except a kind of secret or underground activity, such as you are pleased to legislate against. One must not forget that in this country, and perhaps in many of the capitalist countries, the Press is a monopoly of the capitalist classes. Being the monopoly of the capitalist classes, very much dominated as it may be by vested interests, it does not facilitate free expression, an outlet for expressing those thoughts which may not be welcome to the powers that be, but which, nevertheless, do express the longings of a growing section of the people and which, therefore, cannot but have recourse to other ways, other outlets than are quite commendable in your opinion. Given these hardships, given these handicaps, I submit that it becomes inevitable that the people, or the more enthusiastic of them, should resort to devices, to tactics as it was called, to methods, which may not be perfectly parliamentary, I repeat, but which, nevertheless, give expression to their longing, find activity for them. That by itself, I repeat, because it is secret, is not to be condemned. Secrecy is brought about by repression, just as democracy is the best teacher of democracy. You give freedom, you give freedom to the fullest extent that the Constitution permits, and you will find that the opportunity, the occasion for the dread that you entertain, may even not be there.

The Constitution has provided certain Fundamental rights, and the right of freedom from arrest, though carefully restricted even in the Constitution by itself, is one of them. There are provisions in the Constitution also which, under certain emergencies, will allow normally, even apart from such legislation as is now proposed, the Government of the day to take action against any element that may threaten or jeopardise the defence of the country, the security of the country, and

the maintenance of peace, of law and order as the case may be, in any part of the country. Now, we have added the maintenance and free flow of essential supplies. With these provisions before us, and with the conditions in the country as it is today, I feel that a legislation of this description is apt to prove far more dangerous in breeding new discontent, in leading to the very thing which we want to avoid, than is realised by those in power to-day.

But the point that I would like to emphasise is that more than one highly reputed Congressman himself has strongly objected, even when it was first introduced in this House, to a legislation of this character. Those who were associated with Mahatma Gandhi, or persons like Mr. K. G. Mushruwala, for example, have time and again brought in the Harijan, strong remarks against legislation of this character. You may not be prepared to accept that a man like Mr. Mushruwala is suffering from repression of any kind, that he is in any way hostile or antagonistic or opposed to those in power to-day. His fault, if you think so, is the fault of being true to his own ancient ideals. If you have departed from them, if you have become seeker in your faith, if you are giving up the ideals for which you fought all your lives.....

Prof. Ranga: No. no.

Prof. K. T. Shah: I am only saying "if you are weakened" Why should the hon. Member say, "No, no"? Why is he showing a guilty conscience to that extent? That is only proof that he feels the sting very deeply. Why should you be asserting your denial when I am speaking only conditionally? I am very much tempted to repeat the Shakesperean expression: "Methinks the lady doth protest too much." I was only making remarks and insisting on possibilities which would be applicable if you are so and so, then you must not libel those who uphold those old ideals. Nor were my remarks meant in any way in a personal direction. Therefore, as I said, this is a matter which requires deep heart-searching.

This measure has not been objected to, in so far as public objection is possible, only by the so-called Communists, by those people who have been described here as wedded to the technique of secrecy and the creed of violence. It has been objected to by those who have spent thirty to forty years in the non-violent, peaceful struggle associated with the Apostle of Peace. And if you feel that people like that are mistaken or misled, if you think that

people like that are, after fifty years of public activity, led into wrong paths by slogans, I can only say that this is only expressing change or decay in your own mind, that one should not have expected from stalwards of the kind sitting before us.

I come next to the idea of democracy. You say, and quite rightly, that you are entitled to take steps to maintain the freedom which we have won with such costly sacrifice. You say that you want to preserve the free institutions of the land, the civil liberties, the parliamentary form of government, the democratic faith which we have fought for and the goal of which we have to some extent attained. But I would like quite seriously to put to the hon. Members opposite the consideration whether you do not think that there may be other forms of "democracy" besides that which you prize? It is possible that you consider and believe, and honestly believe that the imitation parliamentary democracy that we are having in this country based on the British model is not only, the last word on democratic self-government, but that it is the best, the most perfect form that could be devised. But there may be others who do not and may not feel that the democracy of this type is the best suited to this country. After all, to the hungry stomach, the mere possibility of casting vote once in five years is no very great concession. Therefore, whether you like it or not, the youth of the country is rapidly becoming more and more red in his outlook, more and more Communist in his outlook. And I must tell you this with all the solemnity that I can command, that precisely those like myself who cannot subscribe entirely to the Communist creed, will suffer far more than those who are openly found to be up against Communism in any form or shape. The revered author of this measure, when he was moving it himself said that it was not against the philosophy, the faith or ideal of Communism that this legislation was intended. It was rather against certain practices, certain forms of that philosophy that he had forged his weapon, to meet the challenge of those people. Incidentally, I may say, because the opportunity has been provided by the observations of the hon. Minister himself, that so far as I know, and in this I am speaking only for myself, no one should describe the late Sardar Patel as "hard or cruel or unfeeling". Far from it. If there is anything that even those who like myself differing from him, had to say against him—I must say about him and not against him—it is this, that he was the one man in Government who had a sense

of definiteness, clearness of vision and consistency in his ideas, no matter what others may think. This Government, time and again, have shown a degree of confused thinking which is painful by itself. If Government today shows in its measures and policy uncertainty, hesitancy and so on, it is perhaps because of the absence of that one strong man with definite views, who had a policy, and was not afraid of putting it into execution. And, therefore, I can publicly and sincerely say, in spite of my differences with him in the past, we feel the loss of him, and we will feel it much more than perhaps the present generation is aware, than those who are his contemporaries are aware. Therefore, I consider it an injustice, and I for my part would like to raise my voice against it, to describe him even by implication as cruel, or hard or unfeeling.

Shri Bharati (Madras): He was only misunderstood like that.

Prof. K. T. Shah: Whosoever has misunderstood him, I must say that I for one do not share that opinion, and any aspersions that might be cast upon him or his memory in the heat of political passion.....

Shri J. R. Kapoor (Uttar Pradesh): Then follow the lead given by him.

Prof. K. T. Shah: I hope and trust that we shall have sufficient sense of political justice, sufficient sense of the freedom of criticism and to have honourable differences of opinion, not to deny this much to the great stalwards that have brought us to this stage by their struggle and their sacrifices. Let us be big enough not to deny them what is due to them for their services. Let us recognise them not only when they are alive—because then it might be tintured with flattery—but even when they are no more, when we can unreservedly say that we miss the contribution that they have been making when the struggle was on and since the goal was reached.

The hon. Minister was pleased to say that there are still considerable numbers of that opinion against which this Bill is designed. I noted, however, that he did not mention the precise figure of those who are supposed to come within the scope of this measure and so are to be guarded against. I do not pretend to have the information that the hon. Home Minister of the Government of India may have in his possession. I trust that when he comes to reply to this motion, he will be good enough to give us the figure of

[Prof. K. T. Shah]

the dangerous elements against whom an extraordinary legislation like this is to be forged. But one thing, I would like to add. If the premises on which these arguments are based are correct, if the grounds on which such legislations are put forward are well-founded, that is to say, if these people work in secret, and if they work according to a creed that is wedded to violence, and they use tricks and so on, then may I say that precisely because they are secret, precisely because they are tricky, it would be difficult to find out the exact number of people who are addicted to this vice, and therefore, it might be difficult, in spite of all his resources, for the hon. the Home Minister of the Government of India to give us anything like an exact figure, or even a satisfactory figure or a near approach, of the number of people who are to be dubbed under this title. I do trust that when the result of this enquiry is placed before this House, there will be no element of prejudice, no tinge of colouring on it, so that you might be mistaken, and by mistake catalogue others to be Communists who are violent, tricky and against whom your measure is to be operated or adopted.

To my misfortune I may say that I have never personally been associated with underground work of any sort; nor have I indulged in secret tactics of any kind. (*Interruptions*).

Mr. Deputy-Speaker: They say it is never too late to mend.

Prof. K. T. Shah: It is only never too late to mend, not dismend and I am not going to "dismend". Whatever I have had to say I have said quite openly and fearlessly in my books and speeches whenever occasion occurred. For thirty years when the past Government was in existence I had quite openly preached against it, written against it, spoken against it and acted against it whenever there was an opportunity. It was always open and therefore, there was no fear then nor now of my being classed as amongst those secret or dangerous elements to which such a law as this might be applied. At least I hope not. However one cannot be sure of the possibilities of the Government opposite, and one never knows, if after forty years of a career as a writer and speaker, I may not be clapped in detention as an unwelcome honorary guest of the Government of the people.

Having held this policy and maintained these principles all my life I am

not afraid to say here and now that this measure does not benefit those who have been foremost in the struggle for freedom. Nor does it indicate their own sense of conscience, their moral righteousness, their own sense of being with the people, working for the people and leading the people, if they show that petty distrust, which, on their own admission, relates to limited elements of the population. We must not ignore at the same time the facts of the situation. There is a terrible food shortage, for instance, in the country. There is a great housing and clothing shortage. These are elementary and fundamental wants of human beings. An ever-increasing number of people in the country are feeling the strain. An ever-increasing proportion of our population is coming under the stress. If at that time they lend their ears to very persuasive words, if at that time under those conditions and circumstances they expose themselves to the machinations of those whom the hon. Minister seems to have in mind, would you blame them, must you necessarily blame them? Would you not be driven, I ask, as an inevitable and logical consequence of your own measures, step by step to imprison without trial and detain without hearing all those whom you describe as Communists, all those whom you regard as dangerous, violent and tricky people? It may be an ever-widening circle of the population, it may be an ever-increasing number of your own supporters, so that ultimately you may be overwhelmed yourself by the unconscious, nevertheless undeniable, resentment of those whom you may govern. Those in power are always deaf; they are always unwilling to see the writing on the wall. Power, they say, corrupts. I am afraid power also helps to blind people, to make them deaf morally, to make them not see the yawning pit before them. They are unmindful of all that is happening and go their own way to a destined fate which no one can save them from.

Several Hon. Members: It is five o'clock. Sir.

5 P.M.

Prof. K. T. Shah: This is a point on which I should like to dwell further.

Mr. Deputy-Speaker: I thought the hon. Member would conclude in another five minutes. I have a doubt regarding the hon. Member's amendment. Possibly I will have to rule it out as a dilatory motion. The amendment does not specify a date for eliciting the opinions on the Bill. The present law expires on the 1st of April. The motion is indefinite and dilatory.

Prof. K. T. Shah: I have not stated a date and it is possible to obtain the opinions within the next four or six weeks. There are yet more than six weeks from now till the 1st of April. If the opinions are going to support you, this delay would not very much matter. If you are afraid that the opinions might go against you and therefore you do not want to collect them, that is another story. I would therefore submit in all humility that it is not a dilatory motion in the sense of the term.....

The Minister of State for Transport and Railways (Shri Santhanam): Sir, is a motion which does not specify a date valid? I think all such motions must specify a date by which the opinion must be elicited.

Mr. Deputy-Speaker: Rule 61 (2) says:

"If the member in charge moves that his Bill be taken into consideration, any member may move as an amendment that the Bill be referred to a Select Committee, or be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion."

There is no date specified in the motion and therefore it would be out of order. However, I do not want to stand on a technical ground, if even now the hon. Member is prepared to give a date.

Prof. K. T. Shah: I would say by the end of this month.

Shri Rajagopalachari: All these rules, to quote the words of the hon. Member himself, are

the result of long experience and wisdom. They are not merely technical rules. For instance, as has been observed by you, Sir, whatever date might be furnished by the hon. Member now would not serve our purpose at all. The opportunity has been taken by the hon. Member to oppose the whole Bill and we have heard the reasons and that is to good purpose.

Prof. K. T. Shah: I would suggest till the end of this month or the middle of March.

Mr. Deputy-Speaker: The hon. Member has not yet made up his mind. Unless he makes up his mind here and now as to the date he wants I will have to rule the motion out.

Prof. K. T. Shah: By the 16th March 1951. In view of the present facilities in communication such as telegraph and radio, I take it that it would not be impossible to obtain the opinions of the proper authorities.

Mr. Deputy-Speaker: Therefore, the motion will now be:

"That the Bill be circulated for the purpose of eliciting opinion thereon....."

By what date?

Prof. K. T. Shah: By the 16th March.

Mr. Deputy-Speaker: All right. But the Member must conclude his speech early.

Prof. K. T. Shah: I shall certainly conclude it early on Monday.

The House then adjourned till a Quarter to Eleven of the Clock on Monday, the 12th February, 1951.