

Wednesday
18th August, 1948

THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE) DEBATES
(PART I—QUESTIONS AND ANSWERS)

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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

PART I—QUESTIONS AND ANSWERS

Wednesday, 18th August, 1948

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS

FORMATION OF PRESS TRUST OF INDIA

283. *Mr. E. K. Sidhva: (a) Will the Honourable Minister of Information and Broadcasting be pleased to state whether a Press Trust of India has been formed by the India and Eastern Newspaper Society?

(b) If so, is the said trust registered and what are their objects?

(c) Is it a fact that this Trust is negotiating with the Reuters and Associated Press of India to purchase their Indian business?

(d) Have Government any hand in this transaction?

(e) Has any subsidy been promised to this Trust in the event of a successful bargain being made? If so, what?

The Honourable Sardar Vallabhbhai Patel: (a) Yes.

(b) Yes; its objects have been set out in its Memorandum of Association.

(c) Yes.

(d) No.

(e) No.

Mr. E. K. Sidhva: May I know what is the result of the mission to England?

The Honourable Sardar Vallabhbhai Patel: I do not know about it.

Shri Mihir Lal Chattopadhyay: May I know what are the names of the trustees and the members of the trust?

The Honourable Sardar Vallabhbhai Patel: I cannot say what are the names. I do not know. The Government have nothing to do with this.

CONSTRUCTION OF PRE-FABRICATED HOUSES

284. *Mr. E. K. Sidhva: (a) Will the Honourable Minister of Health be pleased to refer to the answer to parts (c) and (d) of my starred question No. 527 asked on the 1st March, 1948 and state whether enquiries have been made from the British Government regarding the construction of fabricated houses in London?

(b) If so, what is the number of such houses completed and are similar types of houses possible to be constructed in India considering the shortage of building materials?

(c) How many new houses have been built by the Government of the U. K. of fabricated materials and how many were repaired?

The Honourable Dr. Syama Prasad Mookerjee: (a) Yes, Enquiries were made from His Majesty's Government in the United Kingdom and some literature on the subject has been received.

(b) The total number of houses completed in Britain both permanent and temporary, was 2,76,000 up to September, 1947. Latest figures are, however, not available. It is proposed to set up a factory in India for the manufacture of pre-fabricated houses.

(c) Government have no information.

Since this reply was drawn up, certain other developments have taken place. May I supplement the answer which I have just given?

Mr. Speaker: Yes.

The Honourable Dr. Syama Prasad Mookerjee: It has now been decided by the Government that a factory will be established in India for the manufacture of pre-fabricated houses. The programme is that when the factory is in full operation, it will manufacture materials for about 5,000 houses per year. Each house will cost about Rs. 2,500. The accommodation in each house will be two living rooms nine feet by ten feet and a verandah and kitchen to match. The total cost for putting up the factory will be about Twenty Lakhs of Rupees. The matter was enquired into by a special representative who was sent to England by the Government of India, Mr. Koenigsberger, an architect. It was also examined by Mr. Shanmukham Chetty, the then Finance Minister. The representative of the firm selected has come here and the matter is now nearing completion.

Mr. R. K. Sidhva: May I know where this factory will be started and when the work is likely to be started?

The Honourable Dr. Syama Prasad Mookerjee: The factory is likely to be started somewhere near Delhi. The actual location has not yet been decided. All arrangements are now on hand for starting the factory at once. I may tell the House that it will not be necessary to use any steel at all. The raw materials which will be used will be aluminium and some cement.

Mr. R. K. Sidhva: Is it the reason that 5,000 houses will be built in a year because of the capacity of the machinery, or some other reason? Could not the number be increased?

The Honourable Dr. Syama Prasad Mookerjee: The capacity of the unit that we are now putting up is 5,000 houses. We can go on having more units not only in one place but in various places in India.

Pandit Lakshmi Kanta Maitra: May I enquire in this connection whether the Government is going to consider the scheme which was placed before it of using impregnated wood in the place of steel?

The Honourable Dr. Syama Prasad Mookerjee: That also is under consideration. That may be an alternative raw material which may be used for the purpose of having another kind of structure.

Pandit Lakshmi Kanta Maitra: May I also enquire if the Government have already taken steps to study the claims that have so far been made that wood that is impregnated with chemicals serves as good a purpose as iron and steel?

The Honourable Dr. Syama Prasad Mookerjee: Yes; we have taken steps,

Dr. V. Subramaniam: May I know what will be the average life of a pre-fabricated house?

The Honourable Dr. Syama Prasad Mookerjee: The number of years cannot be definitely stated. It will be somewhere between 30 and 50 years.

Shri M. Tirumala Rao: When the Government are satisfied with regard to the technical soundness of the scheme, will they encourage the provincial Governments to start factories under their own schemes?

The Honourable Dr. Syama Prasad Mookerjee: If this experiment is adopted, it will certainly be the policy of the Government to encourage the starting of similar factories in the various provinces.

Shri H. V. Kamath: Are the pre-fabricated houses which Government contemplates to build in this country similar in type to those that have been built in England?

The Honourable Dr. Syama Prasad Mookerjee: Actually, various types of pre-fabricated houses are now in existence in England. The matter was fully gone into and we have decided to adopt this particular type for which this plant will be established in India.

Prof. N. G. Ranga: Are the Government getting any researches being made by some Indian Engineering experts to get an Indian design for a pre-fabricated house or whatever it is, in which the most important material would be wood, as it has always been in this country?

The Honourable Dr. Syama Prasad Mookerjee: Some researches have been undertaken in Bangalore.

Shri T. T. Krishnamachari: May I ask the Honourable Minister whether he can state that the design that the Government have now on hand is one prepared in India by an architect who had the Indian conditions in view?

The Honourable Dr. Syama Prasad Mookerjee: Yes; Mr. Koenigsberger was the architect who was specially sent out to England, for this purpose.

Shri K. Santhanam: May I know if any model house has been put up and the Honourable Minister has seen the house?

The Honourable Dr. Syama Prasad Mookerjee: We have just ordered six prototypes to be brought out. Orders were placed last week.

Shri H. V. Kamath: Considering that the Indian climatic and other conditions are radically different from the British, does the Government propose to consult Indian house-wives before they finalize the house design?

Mr. Speaker: Order, order.

Dr. B. V. Keskar: In view of the fact that they are erecting a factory, have the Government sent out or are they thinking of sending out Indian Engineers for training in this line?

The Honourable Dr. Syama Prasad Mookerjee: When a factory is put up here, it will be the endeavour of the Government to get Indians also trained. The essential feature of this scheme will be that most of the raw materials will be available in India.

Shri B. Das: What will be the approximate cost of each house, and may I know whether the Government have considered the question of spare parts for repair of these houses?

The Honourable Dr. Syama Prasad Mookerjee: The cost will be about Rs. 2 500. The question of getting spare parts for repairs also is being examined.

Dr. B. Pattabhi Sitaramayya: May I know whether the Government have considered the repercussions of instituting such pre-fabricated houses upon the economy of the country in respect of carpenters, smiths, masons, bricklayers and their occupations?

The Honourable Dr. Syama Prasad Mookerjee: The demand for houses is so large that the Government consider the repercussions will be entirely satisfactory.

Dr. B. V. Keskar: Are the Government aware that many Indian Engineers are at present in England and the U.S.A. and are undergoing training in pre-fabricated houses?

The Honourable Dr. Syama Prasad Mookerjee: I suppose we shall be utilising their services.

Mr. Tajamul Husain: Do the Government think that pre-fabricated houses will be suitable for India with extreme climates?

Mr. Speaker: Order, order. It is a matter of opinion. Next question.

PLANS FOR BELIEVING SCARCITY OF HOUSES IN DELHI

285. *Mr. R. K. Sidhva: (a) Will the Honourable Minister of Health be pleased to state whether any effort has been made by Government since the last Budget Session to grant land at concession rates in Delhi to Co-operative Housing Societies to relieve the congestion in the city?

(b) Has any application been made by any such society? If so, which? Has any action been taken in this direction?

(c) What are Government plans to encourage the building of private houses to relieve the scarcity of houses in Old and New Delhi?

The Honourable Dr. Syama Prasad Mookerjee: (a) A scheme regarding the grant of land to co-operative housing societies prepared by the Delhi Improvement Trust is under examination by the Financial Adviser, Delhi Province. But as all land immediately available for disposal by the Improvement Trust has since been taken over by the Relief and Rehabilitation Board for the housing of refugees, no land is immediately available for allotment to co-operative societies.

(b) Applications have been received by the Chief Commissioner from the following societies: (i) Bharat Housing Co-operative Society Ltd., Delhi, (ii) Friends Co-operative Housing Society Ltd., New Delhi, (iii) Central Government Employees Co-operative Housing Society, Ltd., New Delhi, and (iv) The New Rawalpindi Co-operative Housing Society, Ltd., Delhi.

In view of what has been stated in answer to part (a) it has not been possible to take action so far on the applications received.

(c) The Ministry of Relief and Rehabilitation have formulated a scheme for the benefit of plot owners in Delhi who cannot proceed with construction work for want of building materials. It is intended to give building materials to such plot owners on condition that they undertake to complete construction within a specified period and that after completion the premises are made over to Government on rent for the use of displaced persons for a period of five years. In addition, the following schemes relating to the allotment of plots for refugees in Delhi have also been announced by the Relief and Rehabilitation Ministry.

(i) 857 plots in the Western Extension (Karol Bagh) Area.

(ii) above 3,000 plots in Shadipur.

(iii) 275 plots on Malka Ganj Road.

(iv) 230 plots in Nizamuddin village extension scheme.

(v) Jungpura (about 1,500 plots).

(vi) An expenditure of Rs. 1,02,94,000 has been sanctioned for development of land in Sheikh Sarai for putting up a satellite township.

Mr. R. K. Sidhva: The Honourable Minister said that there is no land available in the vicinity of Delhi for allotment to co-operative societies. Will Government consider setting aside an area in the suburbs of Delhi?

The Honourable Dr. Syama Prasad Mookerjee: That is what I said; it is being considered.

Shri B. Shiva Rao: May I know whether the facilities to which my honourable friend referred will be limited only to refugees, or will Government be prepared to consider their extension to those who are permanent residents of Delhi with fixed incomes?

The Honourable Dr. Syama Prasad Mookerjee: I think Government will be prepared to do that after some reasonable steps have been taken to meet the demands of the refugees.

Mr. R. K. Sidhva: May I know which Ministry is the proper authority for dealing with housing?

The Honourable Dr. Syama Prasad Mookerjee: A new department of Housing has been just created by Government and it has been attached for the time being to the Ministry of Health.

SALE OF ARMS, AMMUNITION AND OTHER ARTICLES BY CREWS OF FOREIGN SHIPS AT PORTS TO AVOID CUSTOMS DUTY

286. *Mr. R. K. Sidhva: (a) Will the Honourable Minister of Finance be pleased to state whether it is a fact that several officers and crews of foreign ships arriving in Indian harbours sell a variety of articles including arms and ammunition to avoid Customs Duty?

(b) Do Government propose to place on the table of the House a statement showing the detection of such offences during 1948?

(c) Have Government sufficient staff at various important ports to search ships and their crew before the latter land the shore?

(d) Is the search carried out periodically on every foreign ship before it touches the harbour?

The Honourable Shri K. G. Neogy: (a) Officers and crews of foreign ships as such are not debarred from selling their personal possessions, which are generally of small value. Customs duty is always charged in respect of such articles before they are passed out of Customs controlled areas. Wherever smuggling has been noticed deterrent penalties are imposed.

(b) 228 cases of such offences were detected during the year 1948, at the major ports. Six cases related to smuggling of arms and ammunition and 222 cases pertained to other articles.

(c) It is impracticable and also unnecessary to search every foreign vessel and generally also at the exit points in the Docks, *i.e.*, at the gates through arriving in Indian harbours. Guards are, however, kept on suspected ships, which all members of the crew, who are liable to be searched, must pass. Government believe that the staff engaged in these duties is on the whole adequate. Additions are of course made to the staff from time to time according to requirements.

(d) No. A ship is liable to be searched by Customs Authorities only when it comes within the port limits. Intensive searches of ships are made on suspicion or information that goods intended to be smuggled are on board. Routine searches are also made from time to time.

Mr. R. K. Sidhva: In view of the large number of smuggling cases on the steamers will Government see that each steamer is searched before being allowed to disembark the passengers?

The Honourable Shri K. G. Neogy: As I have said before, it will be impracticable. It may also give rise to complications if we were to subject each particular ship arriving in the Indian ports to a rigorous search as suggested.

Mr. R. K. Sidhva: Is it a fact that in the absence of such vigorous search recently the purser of an American ship William Allen brought in a large quantity of arms and ammunition and sold it in the city of Bombay; that originally undetected he was later on arrested? May I know if in view of this Government feel that it is not possible or desirable to search the steamers?

Mr. Speaker: That will be a matter of opinion.

The Honourable Shri K. O. Neogy: And so far as that particular incident is concerned, I have no definite information at the moment.

Shri H. V. Kamath: With reference to part (b), may I know what action was taken against the offenders?

The Honourable Shri K. O. Neogy: They were proceeded against under the law in the usual manner.

Shri H. V. Kamath: I want to know how many were convicted or acquitted or discharged, and what punishments were awarded.

The Honourable Shri K. O. Neogy: I have not got that information, but if my honourable friend wants I will be prepared to lay it on the table.

Dr. B. V. Keekar: Is it possible under international law or rules to search in the way suggested every possible ship coming into the harbour?

The Honourable Shri K. O. Neogy: I have not looked into that matter but, as I said, it may lead to undesirable complications.

Shri H. V. Kamath: With reference answer to part (a), what is the line of demarcation between personal possessions and articles for sale?

The Honourable Shri K. O. Neogy: It is very difficult to say.

Mr. Speaker: It is too general a question to be allowed. Next question.

✓ **CASES REFERRED TO INCOME-TAX INVESTIGATION COMMISSION**

287. ***Mr. R. K. Sidhva:** (a) Will the Honourable Minister of Finance be pleased to state the number of cases referred to the Income Tax Investigation Commission together with the names of persons or companies?

(b) Has the Commission disposed of any case?

(c) Do Government propose to ask the Commission to expedite the disposal of the cases referred to them?

The Honourable Shri K. O. Neogy: (a) 153 groups of cases, have so far been referred to the Income-tax Investigation Commission. Government do not consider that it would be in the public interest to disclose the names of the assesseees.

(b) No.

(c) Government do not consider it necessary to issue any directions to the Commission which is fully alive to its responsibilities.

Mr. R. K. Sidhva: What is a group and the number in each group?

The Honourable Shri K. O. Neogy: As a matter of fact a number of inter-connected assesseees is regarded as a group for this particular purpose.

Shri M. Tirumala Rao: As the Honourable Minister's attention been drawn to a statement made by the special correspondent of the *Hindustan Times* this morning that the cases recently ordered to be withdrawn from reference to the Income-Tax Tribunal were done with the approval of the Cabinet? If so, is it correct?

The Honourable Shri K. C. Neogy: I do not know whether that arises directly out of this question.

Mr. Speaker: No, it does not.

Shri L. Krishnaswami Bharathi: How long is the Commission likely to take to dispose of these cases?

The Honourable Shri K. C. Neogy: That is more than I can say.

Prof. N. G. Ranga: Is it a fact that according to the Act there is a time limit set for the work of this Commission?

The Honourable Shri K. C. Neogy: Yes; and the Act also contemplates an extension. And if necessary, further extension can be given if the House so desires.

Shri Khurshed Lal: In view of the statement made by Mr. Chetty that the references to the Tribunal were made without examining whether there was a *prima facie* case or not as time was short, have Government taken any steps to consult their law officers as to whether the references were legal? If not, what do Government propose to do to legalise them?

The Honourable Shri K. C. Neogy: I am afraid I am not in a position to answer that question. I am sure my honourable friend will recognise my difficulty in handling such questions at such short notice.

Seth Govind Das: Can any new names be given to the Commission or is the list exhausted?

The Honourable Shri K. C. Neogy: Yes, up to the end of August under the Ordinance that has been issued extending the period, during which references can be made.

Shri Biswanath Das: In view of the desire of the House to see that these cases are disposed of as quickly and as early as possible, have Government considered the necessity of consulting the Central Board of Revenue to examine cases themselves and withdraw such of them as are found to be unnecessary?

The Honourable Shri K. C. Neogy: I will have the honourable member's suggestion examined.

Dr. V. Subramaniam: I want to know how many groups of cases were disposed of?

The Honourable Shri K. C. Neogy: I do not think any particular group of cases has been disposed of finally.

Mr. Speaker: It is contained in answer to part (b).

RENTAL VALUE OF IMMOVABLE PROPERTY ASSESSED TO INCOME-TAX

288. *R. B. Lala Raj Kanwar: Will the Honourable Minister of Finance be pleased to state the total rental value of the immovable property assessed to income-tax in various Provinces and major Indian States in the years 1938-39, 1944-45, and 1947-48?

The Honourable Shri K. C. Neogy: Figures of rental value for 1938-39 were not compiled; and those for 1947-48 are under compilation along with other annual Income-tax statistics for that year. I am accordingly laying on the table a statement showing the "*bona fide* (net) annual (rental) value" of property assessed to Income-tax in the various provinces in the assessment years 1940-41, 1944-45 and 1946-47. No such figures are available for any Indian State for any year.

Statement

Bonafide net annual value of property assessed to income-tax.

	1940-41	1944-45	1946-47
	Rs.	Rs.	Rs.
Madras	1,25,74,515	1,55,90,614	2,14,49,325
Bombay	5,12,59,548	6,00,35,080	6,62,87,474
Bengal	2,80,64,752	3,59,73,846	3,97,00,057
United Provinces	1,04,36,404	1,30,39,744	1,31,28,954
Punjab	1,31,05,164	1,41,58,422	1,44,73,877
Bihar	30,73,700	39,45,456	45,87,691
Orissa	5,43,493	5,94,635	7,01,099
Central Provinces and Berar	28,64,362*	39,91,650*	48,81,366*
Assam	9,00,975	10,14,973	11,58,476
M. W. F. P.	27,11,013	21,38,885	18,45,395
Delhi	51,86,828	69,48,939	76,74,644
Sind	52,61,732	66,55,736	84,24,594
Baluchistan and Ajmer Merwar	6,94,260	10,32,189	13,69,952
Coorg	7,622	16,454	32,743
Civil and Military Station Bangalore	5,52,639	7,83,526	14,07,543
A. & N. Islands	3,111	..	..
All India	13,53,40,108	16,59,20,099	18,71,23,190

*Includes Mhow.

R. B. Lala Raj Kanwar: May I know whether the Government are satisfied that a great deal of the immovable property, which ought to be subjected to income-tax, is actually subjected to income-tax and if not, whether it escapes taxation?

The Honourable Shri K. O. Neogy: It is very difficult to pronounce an opinion on the question as framed by my honourable friend. We are satisfied that income-tax on immovable property does not go unassessed.

INDIAN STATES WHICH DO NOT LEVY INCOME-TAX

289. *R. B. Lala Raj Kanwar: Will the Honourable Minister of Finance be pleased to state the names of Indian States which do not at present levy income-tax?

The Honourable Shri K. O. Neogy: A statement, showing the names of Indian States which do not levy income-tax, is placed on the table. The information is not however quite up-to-date.

STATEMENT

Showing the names of Indian States that do not at present Levy Income-Tax.

Name of the Union	Names of States
1. United State of Matsya	Alwar, Bharatpur, Dholpur and Karauli.
2. The United State of Vindhya Pradesh	Ajaigarh-Baoni, Barsaundha, Bijawar, Chhatespur, Charkhari, Datis, Maihar, Nagod, Orcha, Panna, Rewa, Samthar, Alipura, Banka, Pahari, Beri Bhaisaundha, Bihai, Bijna; Dhurwai, Gaurihari, Garrauli, Jaso, Jigni, Kamta-Rajaula, Khaniadhana, Kothi Lugasi, Naigawan Robai, Bahara, Paldeo (Naya gaom), Sarila, Sonwai, Taraon, and Tori-Fatehpur.
3. Saurashtra	449 Units including the 30 jurisdictional states of Nawanagar, Bhavnagar, Porbandar, Dhrongadhra, Morvi, Gonsal, Jafrabad, Rajkot, Wankaner, Palitana, Dhrol, Chuda, Limbdi, Wadhwan, Lakhtar, Saylai, Vala, Jasadn, Amarnagar, (Thandevli), Vadia, Lathi, Muli, Bajana, Virpur, Maliya, Kotda-Sangani, Jetpur, Bilkha, Patdi and Khirasra.
4. Gwalior-Indore and Malwa Union	Alirajpur, Barwani, Dewas (Senior), Dewas (Junior) Dhar, Gwalior, Indore, Jaora, Jhabua, Khilchipur, Narsingarh, Rajgarh, Ratlam, Saigana, Sitaman, Jobat, Kathiawara, Kurwai, Mathwar, Piploda.
5. The United State of Rajasthan	Banswara, Dungarpur, Jhalawar, Kishengarh, Kotah, Partabgarh, Shahpura, Tonk and Udaipur.
6. Patiala and East Punjab States Union.	Nalagarh and Kalsia. Jaipur, Jodhpur, Bikaner and Jaisalmer.

R. B. Lala Raj Kanwar: May I know what is the number of such States?

The Honourable Shri K. C. Neogy: It is a very large number. I have not counted them.

Dr. P. S. Deshmukh: What is the number of those that reject income-tax?

The Honourable Shri K. C. Neogy: I have not the number.

Mr. R. K. Sidhva: May I know whether income-tax is levied in the State of Cutch which has come into the Indian Dominion?

The Honourable Shri K. C. Neogy: I take it that in due course all the States in India will fall into line with the rest of the country in this matter.

R. B. Lala Raj Kanwar: May I know whether the States which are at present levying income-tax are doing so at the same rates as the rest of India?

The Honourable Shri K. C. Neogy: I do not think that the rates are uniformly observed in all the Indian States.

Shri K. Santhanam: May I know whether in the States that have merged with the provinces income-tax is leviable at the same rate as in India?

The Honourable Shri K. C. Neogy: This question is under active consideration.

R. B. Lala Raj Kanwar: Will the Government consider the feasibility of moving States which are levying income-tax at differential rates to levy them at the same rates as in the rest of India?

The Honourable Shri K. C. Neogy: This will certainly be considered.

REDUCTION IN GOVERNMENT OF INDIA DEPARTMENTS

290. ***E. B. Lala Raj Kanwar**: Will the Honourable Minister of Finance be pleased to state the number of Gazetted and Non-Gazetted appointments brought under reduction in the various Departments of The Government of India, since the 15th August, 1947?

The Honourable **Shri K. C. Neogy**: A statement is laid on the table of the House.

STATEMENT

Showing the number of staff retrenched since 15th August, 1947, in the various Ministries.

Ministry	Gazetted	Non-gazetted
Ministry of Home Affairs	2	31
Ministry of Finance	36	145
Ministry of Law	2	9
Ministry of External Affairs and Commonwealth Relations	3	24
Ministry of Labour	4	16
Ministry of Railways (Railway Board)	13	188
Ministry of Transport	8	80
Ministry of Food	59	343
Ministry of Agriculture	10	24
Ministry of Industry and Supply	2	147
Ministry of Education	1	..
Ministry of Commerce	1	..
Ministry of Defence	..	..
Ministry of Health	..	..
Ministry of States	..	..
Ministry of Information and Broadcasting	..	..
Ministry of Communications	..	..
Ministry of Works, Mines and Power	..	..
Ministry Without Portfolio	..	..
Cabinet Secretariat	..	..
Prime Minister's Secretariat	..	..
Partition Secretariat	2	33
Department of Scientific Research	..	..
Legislative Assembly Department	..	..
	143	970

Shri H. V. Kamath: Is not it a fact that this reduction has in effect meant the removal of a few clerks, chaprassis and menials, and that the Departments have been left as top-heavy as before?

The Honourable **Shri K. C. Neogy**: I should not think so. It is a long list I have in front of me and in the statement that I have laid on the table. As against 970 non-gazetted appointments, 143 gazetted appointments have been retrenched during the period in question.

Shri B. Shiva Rao: May I know whether any of the recommendations of the Economic Committee have been carried out by the Departments to which they relate?

The Honourable **Shri K. C. Neogy**: I think they are under examination department by department.

Shri Mohan Lal Gautam: What is the total number of the gazetted and non-gazetted officers that have been reduced?

The Honourable **Shri K. C. Neogy**: As I have already said, the number of gazetted officers is 143 and the number of non-gazetted 970. This statement, I may add, relates to the Ministries only and does not include the attached or subordinate offices, for which figures have not yet been obtained.

R. B. Lala Raj Kanwar: May I know whether Government will give priority to reduce hands in connection with vacancies that may arise in future?

The Honourable Shri K. O. Neogy: This certainly is kept in view

Shri B. Shiva Rao: Would it be possible for my honourable friend to lay on the table of the House before the end of this session a statement indicating the amount of retrenchment carried out in pursuance of the recommendations of the Economic Committee?

The Honourable Shri K. O. Neogy: I shall try to comply with my honourable friend's suggestion.

SCHEDULED AND NON-SCHEDULED BANKS

291. ***R. B. Lala Raj Kanwar:** Will the Honourable Minister of Finance be pleased to state:

(a) the number of scheduled and non-scheduled banks opened in the country during the last five years;

(b) the number of scheduled and non-scheduled banks closed in India during the same period; and

(c) the number of scheduled and non-scheduled banks existing in the country as on 1st July, 1948?

The Honourable Shri K. O. Neogy: (a) Forty-two banks were included in the second schedule to the Reserve Bank of India Act during the last five years and about 189 non-scheduled banks were opened during the same period.

(b) Seven banks were excluded from the second schedule to the Reserve Bank of India Act of which 4 have ceased to do banking business. During the same period about 159 non-scheduled banks were closed.

(c) There are 99 Scheduled Banks and approximately 857 non-Scheduled Banks in India. In addition there are about 81 Loan Companies and 45 Nidhis.

R. B. Lala Raj Kanwar: May I know whether the Reserve Bank of India gave any accommodation to Scheduled and non-Scheduled Banks during the past year?

The Honourable Shri K. O. Neogy: I do not suppose there is any obligation cast on the Reserve Bank in regard to the non-Scheduled Banks at all! As regards the Scheduled Banks, I take it that all possible assistance was given by the Reserve Bank within the terms of the Act itself.

R. B. Lala Raj Kanwar: To how many Scheduled Banks was such assistance given?

The Honourable Shri K. O. Neogy: I cannot say off-hand. As a matter of fact, there is no question on this particular point. All that I was asked to supply were certain statistics.

Mr. R. K. Sidhva: Is it a fact that some of the Scheduled Banks were asked to stop receiving deposits from the public?

The Honourable Shri K. O. Neogy: It is very difficult to answer a question like this.

Mr. R. K. Sidhva: Is it a fact whether any of the Scheduled Banks during this period were asked to stop payment of deposits to the public? If so, what were the reasons?

The Honourable Shri K. O. Neogy: I have no information at the moment.

PRODUCTION OF WAR MATERIALS AND REPLENISHMENT OF ORDNANCE STORES

292. ***Shri Mahavir Tyagi:** (a) Will the Honourable Minister of Defence be pleased to state whether Government have made any efforts to replenish their ordnance stores with necessary war materials?

(b) Have Government decided upon a plan according to which they intend to speed up the production and supply of war materials and have they fixed any time-scale targets therefor?

The Honourable Sardar Baldev Singh: (a) Yes, Sir. The replenishment of ordnance stores, which include war materials, is one of the routine duties of the Indian Army Ordnance Corps.

(b) The steps necessary to meet the requirements of the Armed Forces are receiving the constant attention of Government.

Shri Mahavir Tyagi: Have any attempts been made to procure arms and ammunition from foreign countries?

The Honourable Sardar Baldev Singh: It is not in the public interest to disclose the steps taken.

Shri Mahavir Tyagi: Are Government getting any share of reparations released from Germany and other countries?

The Honourable Sardar Baldev Singh: The arms and ammunition the honourable member is referring to is not included in the reparations.

STERLING DELEGATION TO UNITED KINGDOM

293. *Shri M. Ananthasayanam Ayyangar: (a) Will the Honourable Minister of Finance be pleased to state what is the total number of officers who were taken in the Sterling Delegation for the Sterling negotiations to the United Kingdom and what was the cost of the Delegation?

(b) Was there any need to take so many officers?

(c) Was any agreement negotiated for the supply of capital goods, and if so, of what description? How and when are they to be supplied?

(d) Is it a fact that the Standing Finance Committee recommended the inclusion of more non-official members from the Assembly in the delegation for the Sterling talks?

(e) What were the reasons for disregarding the recommendations of the Standing Finance Committee?

(f) Did the Standing Finance Committee give any directions for the negotiations?

(g) If so, what are they and to what extent were they pressed and with what result?

The Honourable Shri K. O. Neogy: (a) The answer to the first part of the question is 12, and to the second part £10,500.

(b) Only those officers directly concerned with the wide and complex range of subjects brought under discussion were taken and I do not consider that the number was excessive.

(c) The capacity of the U. K. Government to export goods of all types including capital goods was examined and consultations took place with a view to ensuring that our requirements were met to the fullest extent possible.

(d) Yes.

(e) It was considered that the composition and strength of the delegation were such that the addition of other delegates was unnecessary.

(f) and (g). The Standing Finance Committee made certain recommendations and these were borne in mind during the negotiations. The recommendations of the Standing Finance Committee will be found in the proceedings of the Committee.

Shri M. Ananthasayanam Ayyangar: May I ask the Honourable Minister if the Standing Finance Committee recommended two names from that Committee also to be associated with the delegation and why was that proposal rejected, especially when it was considered by the Cabinet?

The Honourable Shri K. C. Neogy: My honourable friend would remember that out of the total number of members—I think seven or six—three are members of the Constituent Assembly itself, and one of the three happens to be a member of the Standing Finance Committee. Government did not consider it necessary in view of this fact to give effect to the recommendations of the Standing Finance Committee.

Shri M. Ananthasayanam Ayyangar: Arising out of the answer to part (a) was any agreement, in view of the fact that £80 millions were not used in the previous quota allotted to us, negotiated for the supply of capital goods, and in what order and in what time are those goods to be supplied to us and generally in what categories?

The Honourable Shri K. C. Neogy: I do not think that there was any formal agreement negotiated on this particular point. A good deal of talk took place and it would be open to us to carry on further negotiations in regard to this matter.

Mr. Speaker: The subject was fully discussed a few days ago.

Shri M. Ananthasayanam Ayyangar: So far as capital goods were concerned the Honourable Minister did not tell us definitely whether there was any agreement or not.

The Honourable Shri K. C. Neogy: This specific point was not included in the sterling negotiations, as the honourable member knows.

Shri H. V. Kamath: Is not the reason for Government ignoring the recommendations of the Standing Finance Committee this,—that a dead ghost of the bureaucratic past still continues to haunt the Government?

Mr. Speaker: Order, order.

EMPLOYMENT OF PERSONS WHO OPTED FOR PAKISTAN AND SUBSEQUENTLY APPLIED FOR RETENTION IN INDIA

294. ***Shri M. Ananthasayanam Ayyangar:** (a) Will the Honourable Minister of Home Affairs be pleased to state how many officers and subordinate staff in the various Ministries who opted for Pakistan applied to be retained in India and how many have been re-absorbed?

(b) How many Muslims who opted for Pakistan did not join duty and applied to be retained in India? Have they been re-absorbed in India and if so, how many?

(c) Has any authority investigated the reasons for Muslims who opted for Pakistan desiring to rejoin duty in India?

(d) How many applications for retention in India were granted and how many were rejected?

(e) Has care been taken not to employ those who return, in the Ministries of Defence, Communications and other important services?

The Honourable Sardar Vallabhbhai Patel: (a) to (e). The information as to numbers is being collected and will be placed on the table of the House as soon as available.

Central Government employees were allowed to change their initial option within a period of six months from 15th August 1947. Those who changed their provisional option in accordance with this provision to a final option for India were entitled to be reabsorbed in suitable vacancies under the Government of India irrespective of the reasons for the change of option. No enquiries were therefore made about the reasons for change of option but Government naturally satisfied themselves before their re-employment about their suitability for service in India and appointed them to posts and in Departments for which they were considered suitable.

Shri H. V. Kamath: Have any instances come to light of Muslims who finally opted for Pakistan but later on resigned from the Pakistan Government employ and applied for re-absorption in India?

The Honourable Sardar Vallabhbhai Patel: Even if they applied they will not be taken. I have not found any such application.

Shri H. V. Kamath: Should not the loyalty of such Muslims as even initially opted for Pakistan be regarded with circumspection?

Mr. Speaker: The question does not need an answer.

KASHMIR OPERATIONS

295. *Shri M. Ananthasayanam Ayyangar: (a) Will the Honourable Minister of Defence be pleased to state what is the latest position of the war in Kashmir?

(b) How many raiders have been killed so far and what are our total casualties in the operations from the commencement thereof?

(c) What are the estimated losses of the other side?

(d) What is the extent of territory still under the occupation of the raiders and when do Government expect to be able to expel them completely?

The Honourable Sardar Baldev Singh: (a) I would invite the attention of the honourable member to the daily press communiques issued by the Ministry of Defence.

(b) to (d). It would not be in the public interest to disclose this information at present.

Shri Mahavir Tyagi: When does the Government intend to give this information to the public?

The Honourable Sardar Baldev Singh: Government will be able to give this information to the public when it is in the public interest to do so.

Shri M. Ananthasayanam Ayyangar: May I know what we are spending per day on these operations in Kashmir?

The Honourable Sardar Baldev Singh: I am afraid I cannot give this information.

ATROCITIES ON HINDUS IN HYDERABAD AND BREACH OF STANDSTILL AGREEMENT

296. *Shri M. Ananthasayanam Ayyangar: (a) Will the Honourable Minister of States be pleased to state whether the attention of Government has been drawn to the letter of resignation of a Minister of Hyderabad, Mr. Joshi, detailing the atrocities committed on the Hindu population there, the genocide and reign of terror (by the Nizam's Forces and Razakars) and the war preparations going on there?

(b) Is it a fact that the Hyderabad Government have increased the strength of their army and are encouraging private armies to be formed contrary to the Standstill agreement? If so, what steps do the Government of India propose to take to counteract these activities?

(c) In what respects has the Standstill agreement been broken by the Hyderabad Government?

(d) Have Government considered the revocation of the agreement and taking of suitable action?

The Honourable Sardar Vallabhbhai Patel: (a) to (d). I would invite the honourable member's attention to my statement of the 10th August and the White Paper on Hyderabad which has been laid on the table of the House.

Maulana Hasrat Mohani: Is it not a fact that almost all such sufferers belong to a group of Hyderabad State subjects who elected to rise in revolt against their government, to hoist the Indian flag and declare many of the Hyderabad villages as independent?

The Honourable Sardar Vallabhbhai Patel: It is not a fact in all cases.

Maulana Hasrat Mohani: Is it a fact at least in some cases? I assert it is so in almost all cases.

The Honourable Sardar Vallabhbhai Patel: That is your opinion.

श्री मोहन लाल गौतम: क्या गवर्नमेंट को यह मालूम है कि हैदराबाद के बहुत से वजीफे पाने वाले लोग हिन्दुस्तान में मौजूद हैं।

Shri Mohan Lal Gautam: Are Government aware of the fact that many spies of Hyderabad are present in India?

The Honourable Sardar Vallabhbhai Patel: Some of them are here.

Mr. Tajamul Husain: Do Government realise that Hyderabad is getting stronger and stronger day by day?

The Honourable Sardar Vallabhbhai Patel: Oh, yes: not only day by day but night by night also!

Maulana Hasrat Mohani: With reference to part (d) of the question, is it not a fact that the thing which exactly Hyderabad wants is the revocation of the standstill agreement at once, because it would be advantageous to them but they do not want to take the initiative in the matter?

The Honourable Sardar Vallabhbhai Patel: I do not know the mind of the Hyderabad Government.

FOREIGNERS INTERNED IN INDIA DURING WORLD WAR II

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

(a) the number of foreigners, according to nationality, that is to say, German, Italian, Japanese or other, who were interned in various concentration camps and jails in India during World War II;

(b) how many committed suicide, how many died a natural death, and how many were shot dead or otherwise killed during their internment;

(c) how many were released before and after the close of World War II;

(d) how many have been repatriated or deported since their release, and how many are still at large in India; and

(e) how many of the last named category are in the employ of Government and industrial or commercial establishments?

The Honourable Sardar Vallabhbhai Patel: (a) The number of foreigners detained in the various internment camps during the war varied from time to time but the maximum number of foreigners so detained at a time was 5,819. Of these 2,106 were Germans, 1,147 Italians, 2,114 Japanese and 452 others. No foreigner of enemy nationality was detained in a Jail.

(b) 3,332 and 19 respectively.

(c) 519 during, and 584 after the close of the war.

(d) No question of repatriation arises in the case of aliens permanently released from internment camps. None was deported. The number of those still at large in India is about 1,014.

(e) According to the information available there is only one such person in the employ of Government. The rest are in the employ of industrial or commercial or private establishments or have set up their own independent business or profession in this country.

Shri H. V. Kamath: Arising out of answer to part (b) of the question, is it not a fact that sometime in April 1945 a number of Japanese women and children were shot behind barbed wire by the British in cold blood?

The Honourable Sardar Vallabhbhai Patel: 17 out of 19 shot dead were Japanese. They were shot dead because of their revolt.

Shri H. V. Kamath: Why did the shooting take place? Have the Government any information?

The Honourable Sardar Vallabhbhai Patel: I am afraid it will not benefit the House and the public to go into what happened in 1945?

Shri H. V. Kamath: Now, Sir, arising out of answer to part (d) of the question, what was the basis on which the foreigners were repatriated or deported since their release during and after the war?

Mr. Speaker: I am afraid the question relates to the past.

Shri H. V. Kamath: No, Sir. May I know whether our Government since they came to office have taken any action either of repatriation or deportation against any of these foreigners who were released from the internment camps after the end of the world war?

Mr. Speaker: The allegation seems to be that after their release this Government has taken action against some of those people either by interning them or by deporting them.

The Honourable Sardar Vallabhbhai Patel: It is not correct. The releases after the detention were in many cases conditional and the orders of repatriation were enforced; as arrangements for their repatriation were made they were repatriated.

Shri H. V. Kamath: Was it applied only to enemy foreigners or even to other people?

The Honourable Sardar Vallabhbhai Patel: Not to Indian nationals.

Shri H. V. Kamath: During the war there were enemy foreigners and also alien allies. Was this deportation or repatriation applied not merely to enemy foreigners but to all aliens?

The Honourable Sardar Vallabhbhai Patel: To all undesirables.

Shri H. V. Kamath: Is it not a fact that among those people who have been absorbed in commercial and industrial establishments there have been many notable Fascists and Nazis?

The Honourable Sardar Vallabhbhai Patel: I have no knowledge about these. They may have been Fascists before and may have become wise afterwards.

298. *Shri B. P. Jhunjhunwala: In view of the discussion that took place in the House I do not want to put this question.

NATIONAL ANTHEM FOR INDIA

299. *Shri V. O. Kesava Rao: (a) Will the Honourable Minister of Home Affairs be pleased to state whether it is a fact that the Government of India have asked the Provincial Governments to consider "Jana Gana Mana" as the National Anthem for the present?

(b) What is the reaction of the Provincial Governments to this proposal?

(c) What are the provinces which have agreed to have "Jana Gana Mana" as the National Anthem?

The Honourable Sardar Vallabhbhai Patel: The Honourable the Prime Minister has agreed to deal with this question and will answer it on the 25th August 1948.

DR. P. J. THOMAS'S REPORT ON CONTROL OF STOCK EXCHANGES

300. *Prof. K. T. Shah: Will the Honourable Minister of Finance be pleased to state whether the attention of Government has been drawn to the press report giving a substance of the report of Dr. P. J. Thomas regarding the control of the Stock Exchanges, and if so, do Government propose to lay a copy of that report on the table of the House; and inform the House whether Government intend to consult this House before any steps are taken to implement the recommendations of that report?

The Honourable Shri K. C. Neogy: Yes, Sir. Copies of the Report have already been placed in the Library of the House. The recommendations are being examined by the Government and any legislation that Government may decide to undertake will come before the House.

Shri M. Ananthasayanam Ayyangar: Can copies of the Report be printed and circulated to members of this House?

The Honourable Shri K. C. Neogy: They are available in the Library. I will consider the honourable member's suggestion if a sufficient number of copies is available.

TEMPORARY EMPLOYEES IN GOVERNMENT OFFICES

301. *Prof. K. T. Shah: Will the Honourable Minister of Home Affairs be pleased to state:

(a) how many of the clerical or assistant grade employees, in the Secretariat of the Government of India or its attached offices, have been engaged since 1st September, 1939, on a temporary basis, and still continue as temporary employees;

(b) whether the services of any of these employees referred to in part (a) above, have been dispensed with, and if so, of how many and for what reasons; and

(c) whether any decision has been arrived at as regards the policy to be adopted for making any of these employees permanent in their present employment, and if so, whether Government propose to place on the table of the House their decision on the same?

The Honourable Sardar Vallabhbhai Patel: (a) and (b). The information as to numbers involved is not readily available and its collection will involve labour and time in commensurate with the results achieved. The reasons for the discharge of temporary employees mainly are reduction of establishments or the replacement of unqualified employees by persons who have qualified for permanent appointment on the result of the examination held by the Federal Public Service Commission in May, 1947.

(c) A statement containing a summary of instructions issued on this subject is placed on the table.

SUMMARY OF INSTRUCTIONS ISSUED BY THE MINISTRY OF HOME AFFAIRS

*SUBJECT:—Ministerial Establishment—Replacement of unqualified by qualified personnel.
—Summary of instructions issued by the Ministry of Home Affairs.*

The Honourable Home Minister gave an assurance in the Assembly last year that steps would be taken to secure the replacement of 'unqualified' temporary employees by 'qualified' persons. The position has been reviewed. It is necessary to arrange replacement in a systematic manner of 'unqualified' by 'qualified' personnel, and to provide reasonable facilities for existing temporary employees to qualify themselves for permanent appointment.

2. *Eligibility for confirmation in permanent vacancies.*—It has been decided in consultation with the Federal Public Service Commission, that existing instructions regarding eligibility for confirmation should be relaxed in the manner specified below:

- (a) Temporary employees of the Secretariat and attached offices of the Government of India who are educationally qualified for the posts they hold, but are at present ineligible to appear at the Ministerial Services Examinations held by the Commission on grounds of age, should be allowed to appear in the next two such examinations; provided that on the dates to be prescribed by the Commission, their actual age minus the period spent by them in Government service does not exceed 28 years. Employees who are within such extended age limit may be declared eligible for confirmation in permanent posts, if they are successful at one or other of the next two tests to be held by the Commission.

Note.—As a result of certain representations which have been received, a further relaxation of this extended age limit is under consideration.

- (b) Temporary employees belonging to the Scheduled Castes who were recruited upto the 31st December, 1947, to the offices mentioned in (a) above and who are educationally 'qualified' for the posts they hold should be eligible for confirmation upto a maximum of 12½ per cent. of the vacancies available for direct recruitments in the grade in which they are employed provided they have rendered at least three years satisfactory service.
- (c) Temporary employees who qualified at previous examinations held by the Commission should be eligible for confirmation to the grade for which they qualified and were nominated (either by the Ministry of Home Affairs or by the Commission) provided they have rendered at least three years' service, and Ministries concerned certify that their services have been such as to merit confirmation.

It is also contemplated that certain relaxation should be made in respect of refugee Government servants who held permanent appointments under the Governments under whom they were formerly employed, who have been or may hereafter be placed in temporary employment through the Transfer Bureau. The exact nature of the relaxation to be made has not yet been settled.

3. For the purposes of implementing the decisions mentioned in the preceding paragraph, all assistants and clerks who are at present employed in a temporary capacity should be divided into: (a) Qualified; (b) Qualifiable; and (c) Unqualifiable.

The criteria governing the allocation of temporary employees to one or other of these three categories are broadly as follows:

- (a) *Qualified*.—A temporary Government servant is 'qualified' for a post if he is eligible in terms of para. 2 above to confirmation in a permanent vacancy in that grade.
- (b) *Qualifiable*.—A temporary Government servant is qualifiable, if he is not yet 'qualified', but is not 'unqualifiable'.
- (c) *Unqualifiable*.—A temporary Government servant is 'unqualifiable' for the post he holds, if in spite of relaxations contained in para. 2 above, he will not become eligible for confirmation in a permanent vacancy in that grade. Broadly, the following categories of temporary Government servants are 'unqualifiable':
- (i) Persons who do not possess the minimum educational qualifications for the post they hold;
 - (ii) Persons (other than members of the Scheduled Castes or refugees placed in temporary employment by the Transfer Bureau) whose actual age minus the period spent by them in Government service exceeds 28 years.

5. The intention is that 'qualifiable' persons should be helped to become qualified through one or other of the relaxations specified in para. 2 above, and should not be discharged prematurely, if arrangement can be made for their retention in posts vacated by 'unqualifiable' persons. It is intended that 'unqualifiable' persons should be discharged as and when 'qualified' or 'qualifiable' persons become available to fill the vacancies thus created. Ministries have been asked to prepare lists of 'unqualifiable' assistants and clerks in the Secretariat and Attached Offices and to forward them to the Transfer Bureau in the Ministry of Home Affairs. The Transfer Bureau will thereupon nominate suitable persons from their lists to posts at present held by 'unqualifiables'.

6. Instructions have been issued that certain categories of employees among 'unqualifiables' whose cases require further consideration should not be discharged or reverted pending such consideration. These excepted categories are described below:

- (i) A temporary employee who is 'unqualifiable' only on the grounds of age provided that his age on the 1st January, 1949, does not exceed 45 years.
- (ii) A refugee Government servant who has been nominated by the Transfer Bureau, even if he is 'unqualifiable' both on grounds of education and of age, provided that if such refugee (a) was not in the permanent employ of the Government under which he was formerly serving, and (b) is not a graduate, but has been nominated to the grade of assistant, he may be reverted to the grade of clerk

- (iii) A permanent 3rd Division Clerk who has been promoted to the grade of Assistant even though not educationally qualified for the latter grade.

The future treatment of these excepted categories is under consideration.

1. The following priority categories are now registerable in the Transfer Bureau who nominate suitable candidates from their lists to vacancies reported to them :

I. *Central Government Employees* : who opted for India and have not yet been provided for and whose names are forwarded by Ministries concerned to the Transfer Bureau.

II. *Refugee Government Servants* : of the following categories, namely :

- (i) Permanent Government servants except those who do not possess the minimum educational qualifications, namely, Matriculation.
- (ii) Temporary Government servants who are (a) graduates with at least 5 years' qualifying service including three years' continuous service; and (b) Stenographers and Typists (subject to test of suitability).

III. *Retrenched personnel*.—Certain categories of Central Government servants who have been or are likely to be retrenched, provided that they are graduates, have been classified as outstanding or definitely fit for permanent appointment if a vacancy exists, have been in temporary employment under that Government continuously for not less than three years, and their age does not exceed a certain limit to be prescribed hereafter.

Prof. K. T. Shah: Are these discharges irrespective of the recommendations of the Economy Committee?

The Honourable Sardar Vallabhbhai Patel: Oh, yes; it has nothing to do with the recommendations of the Economy Committee which probably will come into operation later.

PRIVILEGES AND PREROGATIVES AND PRIVY PURSES OF RULING PRINCES

302. ***Prof. K. T. Shah**: Will the Honourable Minister of States be pleased to state.

(a) the exact juridical status of the several Unions of States like Saurashtra, and their places under the Draft Constitution of the Dominion of India;

(b) what part of the hereditary privileges or prerogatives of the Ruling Princes whose States have;

- (i) been merged with a Province of the Dominion of India; or
- (ii) have formed Unions of their own to become units of the Dominion of India; or,

(iii) have become part of the centrally administered territories, is being continued under the arrangements made with each, and whether any guarantee has been given by the Government of India to maintain the same in perpetuity; and

(c) the amount of allowances in lieu of their Civil List, granted to the Ruling Princes and their families, who have agreed to merge their States with an Indian Province, or form a Union amongst themselves and become a unit of the Dominion of India, and whether such amounts shall be chargeable to the Direct Taxes levied by the Dominion Government?

The Honourable Sardar Vallabhbhai Patel: (a) The status of these Unions is similar to that of any other State; the Unions as well as other States are included in Part III of the First Schedule to the Draft Constitution.

(b) Attention of the honourable member is invited to my reply to Shri Kishorimohan Tripathi's question No. 206, dated 18th August, 1948.

(c) As regards privy purse fixed for the Rulers under the Agreements and Covenants signed by them, attention is invited to the statement laid on the table of the House in reply to part (a) of Shri R. K. Sidhwa's question No. 84, dated 10th August, 1948. The privy purse is a direct charge on the revenues of the areas concerned and is not dependent on the taxes imposed by the Dominion Government.

Prof. K. T. Shah: Do I understand that these Unions are not on a line with Provinces and do they continue to remain as separate units?

The Honourable Sardar Vallabhbhai Patel: They generally are on the lines of the Provinces, that is, their administration is being brought on to the level of the Provinces. But so long as they have not merged, the Union as a whole is entitled to be treated as a separate unit.

Prof. K. T. Shah: May I enquire if the constitution of these Unions will be in harmony with the general Constitution of the Union of India or will it be in any way dissimilar?

Mr. Speaker: It is hardly a question to be put to the Honourable Minister; it is a question for the Constituent Assembly.

Maulana Hasrat Mohani: With reference to part (a), is it not a fact that the course adopted by the Indian Government is something which we have been condemning in connection with Clive, Hastings, Dalhousie and others in making pure annexation, and asking the Rulers of Indian States.....

Mr. Speaker: I am not allowing this question; I disallow it.

Shri B. Shiva Rao: Is it a fact that the practice of the old political Department of not permitting direct correspondence between the States and the different Departments of the Government of India continues even now under the States Ministry?

The Honourable Sardar Vallabhbhai Patel: The States are allowed to correspond directly with the Government of India.

Shri B. Shiva Rao: My question was whether the States can correspond directly with the different Departments of the Government, without such correspondence going through the States Ministry?

The Honourable Sardar Vallabhbhai Patel: No, Sir, they cannot correspond directly.

AMOUNT FOR WHICH EXAMINER OF CAPITAL ISSUE GRANTED PERMISSION

303. ***Shri B. P. Jhunjhunwala:** (a) Will the Honourable Minister of Finance be pleased to state the total amount for which the Examiner of Capital Issue had granted permission, as against the total amount for which applications were made during the financial years 1946-47, 1947-48 and 1948-49 for each year separately?

(b) What was the total number of such applicants and how many of them got permission?

(c) What was the total amount of Capital subscribed as against the amount for which permission was granted?

The Honourable Shri K. C. Neogy: (a) and (b). I place a statement on the table of the House.

(c) I regret that the information is not available. It will be laid on the table of the House as soon as it is collected.

STATEMENT

Year	Number of companies applying	Amount asked for	Number of companies to which consent was given	Amount consented for
		Rs. (in crores.)		Rs. (in crores)
1946-47—				
(1-4-46 to 31-3-47)	962	3,43,33	657	2,70,68
1947-48—				
(1-4-47 to 31-3-48)	511	1,92,73	428	1,62,64
1948-49—				
(1-4-48 to 30-6-48)	126	44,70	109	35,46

CAPITAL FOR INDUSTRIAL CONCERNS

304. *Shri B. P. Jhunjhunwala: (a) Will the Honourable Minister of Finance be pleased to state whether it is a fact that capital has become shy, and people are reluctant to subscribe to any industrial productive concerns, whether it is a private concern or a semi-Government concern?

(b) If the answer to part (a) above be in the affirmative, have Government, in view of its adverse effect on increase of production, tried to find out its causes?

(c) If so, what are these causes?

The Honourable Shri K. C. Neogy: (a) to (c). I would refer the honourable member to the debate that took place in the House the other day on the economic conditions and the Prime Minister's speech in that connection. The whole question is under active consideration by the Government.

Seth Govind Das: Will the Government see that in their future plans no consideration of these capitalists should be taken and we should go forward with our plan without caring for them?

USE OF WORD "KANNADA" INSTEAD OF "KANARESE"

305. *Shri E. E. Diwakar: (a) Will the Honourable Minister of Home Affairs be pleased to state whether Government are aware that the correct name of the language now mis-called 'Kanarese' is 'Kannada' and that the Government of Bombay and the University of Bombay have accepted the correct nomenclature?

(b) Do Government propose to use hence-forward the correct name and spelling namely 'Kannada' instead of 'Kanarese'?

The Honourable Sardar Vallabhbhai Patel: (a) Government are not aware of any decision reached by the Government of Bombay or the University of Bombay, and have no information on the subject.

(b) Government will examine the suggestion of the honourable member.

CITY COMPENSATORY ALLOWANCE FOR GOVERNMENT EMPLOYEES IN HUBLI

306. *Shri B. E. Diwakar: Will the Honourable Minister of Finance be pleased to state as to why the city of Hubli with a population of 1,08,000 has not been yet included in the list of cities covered for purposes of 'Grant of compensatory (city) allowance and house rent allowance' under 'Finance Department, No. F. 6(I)-Est.-Spl. (47), dated 31st July 1947, New Delhi'?

The Honourable Shri K. O. Neogy: Compensatory and house rent allowances were sanctioned in the Finance Department memorandum referred to on the basis of the expensiveness of living and the population in the cities based on the 1941 Census. As Hubli satisfies neither of these conditions it has not been included in this list of cities.

Shri B. E. Diwakar: Is there any idea of including it in the list since the population has gone up beyond one lakh?

The Honourable Shri K. O. Neogy: Yes, the question is under consideration.

PERMITS FROM INCOME-TAX DEPARTMENT FOR REGISTRATION OF DEEDS

307. *Shri B. E. Diwakar: (a) Will the Honourable Minister of Finance be pleased to state whether Government are aware that much inconvenience, delay and hardship are caused to the people concerned on account of the restriction placed on the registration of deeds involving immovable property unless a permit is procured from the Income-Tax Department.

(b) If so, what steps do Government contemplate to take to remove this grievance?

(c) Are Government aware that only one Income-tax Officer staying in Poona is authorised to issue such permits regarding transactions in about eleven districts of Karnatak and Maharashtra?

(d) If so, do Government propose to devise means to expedite the issue of permits within a week of the application by the party concerned?

The Honourable Shri K. O. Neogy: (a) Judging from the very few complaints received, Government is not in a position to say that much inconvenience, delay or hardship has been caused.

(b) and (d). Instructions have been issued from the very beginning that tax clearance certificates should be issued promptly in all but the specially peculiar or difficult cases.

(c) The certificates are required to be issued by the Inspecting Assistant Commissioner of Income-tax and there is only one such Officer for the districts mentioned.

Shri B. E. Diwakar: May I know if the Government is aware that for three months in certain cases no such permits could be issued?

The Honourable Shri K. O. Neogy: Well, I have no information on the point, but if my honourable friend would kindly let me have particulars I would certainly look into the matter.

Pandit Lakshmi Kanta Maitra: Do I understand from the Honourable Minister that the Government of India has no information on the point that for lack of permits registration is being held up in Provinces and there has been colossal fall in the revenue of the Provincial Governments under the head of registration?

The Honourable Shri K. O. Neogy: As I have said, very few complaints indeed have been received by the Government of India.

Pandit Lakshmi Kanta Maitra: Do I take it that the Provincial Governments never addressed the Honourable Minister on this?

The Honourable Shri K. C. Neogy: As far as I am aware, Provincial Governments have not made any complaint.

Pandit Lakshmi Kanta Maitra: Is it not a fact that several organisations sent telegrams after telegrams to the Finance Department to remove this disability which interfered with registration in Provinces and interfered with the income of Provincial Governments?

The Honourable Shri K. C. Neogy: I wonder if my honourable friend is referring to a complaint which has been removed. That complaint related to the application of this particular restriction to the transfer of shares and stocks. I am perfectly aware of the complaints that were received in that connection, but that complaint has been removed.

Pandit Lakshmi Kanta Maitra: I am also referring to handicaps in the registration of transfer of property.

The Honourable Shri K. C. Neogy: What type of property? I am referring to a particular kind of property in which the complaint has been remedied.

Mr. Speaker: He refers to immovable property.

The Honourable Shri K. C. Neogy: I am not aware of that.

Shri M. Ananthasayanam Ayyangar: Is this restriction Universal or confined to only particular places?

The Honourable Shri K. C. Neogy: The officers concerned have got considerable discretion in the matter. This particular provision is really intended to prevent evasion of payment of the income-tax, specially by those who may intend leaving the Indian Union.

Pandit Lakshmi Kanta Maitra: May I also enquire from the Honourable Minister if his Department has received any representation from the Relief and Rehabilitation Department of the Government of West Bengal in which they complained that this impediment in the way of registration was standing in the way of rehabilitation of the refugees who had purchased land for settlement?

The Honourable Shri K. C. Neogy: I am not aware of that.

Shri E. R. Diwakar: If this was intended to apply only to people leaving for Pakistan, may I know why it has been applied to Provinces like Bombay?

The Honourable Shri K. C. Neogy: That was the secondary object, but as I stated the main object was to prevent evasion of payment of income-tax by people.

Shri E. R. Diwakar: May I know if there is any time-limit prescribed for the officers, that they should give permits within a particular time after application?

The Honourable Shri K. C. Neogy: Well, I do not exactly know.

Pandit Lakshmi Kanta Maitra: May I know if the Government propose to have any relaxation of this in the very near future?

The Honourable Shri K. C. Neogy: If complaints are brought to my notice, I shall certainly consider the lines on which any relaxation that may be justified can be granted.

308. [WITHDRAWN].

RE-ORGANISATION OF GOVERNMENT OF INDIA SECRETARIAT

309. ***Shri E. R. Diwakar:** (a) Will the Honourable Minister of Home Affairs be pleased to state whether any re-organisation of the Secretariat of the Government of India has been undertaken?

(b) To whom has it been entrusted and what are the lines along which it is sought to be re-organised?

The Honourable Sardar Vallabhbhai Patel: (a) and (b). The Honourable Minister without Portfolio has been entrusted with the investigation of the working of the Cabinet, and the question of the Reorganisation of the Machinery of the Central Government.

Shri M. Ananthasayanam Ayyangar: Has he made any report so far, or when is he expected to conclude his enquiry or investigation?

The Honourable Sardar Vallabhbhai Patel: I am not in a position to answer when the enquiry is to be concluded, but I do not think it will take very long.

Shri B. Shiva Rao: Is there no danger of any overlapping of functions between the Economy Committee's work and this particular task assigned to the Minister without Portfolio?

The Honourable Sardar Vallabhbhai Patel, No, Sir.

Shri B. E. Diwakar: May we know the terms of reference given to the Minister without Portfolio for this reorganisation?

The Honourable Sardar Vallabhbhai Patel: I have not got the terms of reference with me now, but I will place a copy of it on the table of the House.

GRANTS-IN-AID TO UNIVERSITIES AND OTHER EDUCATIONAL INSTITUTIONS

310. *Seth Govind Das: Will the Honourable Minister of Education be pleased to state:

(a) the policy of the Government of India regarding grants-in-aid to Universities and other educational institutions of the country;

(b) the number, names and addresses of the Universities and other educational institutions already receiving such grants at present; and

(c) the amounts of grants-in-aid given to each?

آئیڈیل مولانا ابوالکلام آزاد : (a) گورنمنٹ آف انڈیا کی موجودہ پالیسی یہ ہے کہ تین سنگول یونیورسٹیوں کے علاوہ ملک کے دوسرے انسٹی ٹیوشنوں کو بھی خاص حالتوں میں گرانٹ دی جائے۔

گورنمنٹ نے سائنٹیفک، اور ٹیکنیکل تعلیم کے لئے چند انسٹی ٹیوشنوں کو گرانٹ دی ہے گرانٹ دیتے ہوئے یونیورسٹی گرانٹ کمیٹی اور آل انڈیا کونسل کا ٹیکنیکل ایجوکیشن کی سفارش سامنے رکھی جانی ہیں۔ یا پھر کسی ایسی کمیٹی کی سفارش جسے خود گورنمنٹ نے کسی خاص مطالب کے لئے بتھایا ہو۔ جو سائنٹیفک میں پاور کمیٹی اور جیالاجیکل ایجوکیشن کمیٹی۔

دہلی یونیورسٹی کے جو کانسٹی ٹیوٹ ہیں انہیں بھی گرانٹ دی جاتی ہے۔ پچاس فی صدی ٹیچنگ سٹاف کے لئے اور تیس فی صدی دوسرے کاموں کے لئے

گورنمنٹ نے گرانٹ دینے کے لئے جو ضروری قاعدے تھرائے ہیں۔ اور چلکی روشنی میں گرانٹ کی درخواستوں کو جانچا جاتا ہے۔ انکی ایک کاپی ہاؤس کے ٹیبل پر رکھی جاتی ہے۔

(b) اور (c) ایک سٹیٹمنٹ ٹیبل پر رکھی یا جاتا ہے۔ جس سے تفصیلات معلوم ہو

چائیکی۔

The Honourable Maulana Abul Kalam Azad: (a) The present policy is that in addition to the grants to the three Central Universities, grants are given to some other Scientific and Technical Educational institutions. These grants may be given on the recommendations of the University Grants Committee or the All-India Council of Technical Education or any other expert Committee set up by the Government of India to advise Government on specific problems, e.g., the Scientific Manpower Committee or the Geological Education Committee. Grants to constituent Colleges of the Delhi University are in the nature of maintenance grants and are calculated at 50 per cent. of the College's expenditure on the teaching staff and 20 per cent. of the other expenditure.

A copy of the procedure laid down by Government for considering applications from Educational institutions for financial aid from Central revenues is placed on the table.

(b) and (c). A statement is laid on the table.

STATEMENT I

Procedure to be observed in considering applications from Educational Institutions, (technical and cultural) for grant-in-aid from Central Government.

- (1) The institution should be of an all-India character.
- (2) Grants should be made subject to satisfactory reports by the Governments of the areas in which the Institutions are located and to the receipt of a grant from the Government of the area.
- (3) At least 25 per cent. of the students of an Educational Institution must be from Provinces and States outside the Provinces or States in which the institution is located. This percentage need not, however, be rigid and might be allowed to depend upon the amount required from the Government of India. Amongst these 25 per cent. students, those other Provinces and States should have a fair distribution.
- (4) There should be equal opportunity of employment of men and women of all Provinces in the staff.
- (5) In the distribution of any aids, scholarships or freeships given by the Institutions to students, the same principle should be observed.
- (6) The institution should fulfil a real all-India need, for instance, it may be the only institution of its kind, dealing with a subject or class of students with which no other institution is concerned or a case is made out that although other institutions of the type exist, there is need for additional institutions.
- (7) The institution is required in the general plan of development—educational (scientific, humanistic, etc.), or cultural.
- (8) Scale of salaries of the staff of the Institution should be on bases approved by the Central Government.
- (9) The institution should be open to inspection by Central Government.
- (10) Annual Reports and Audited Accounts should be submitted regularly to the Government of India.
- (11) Except in very special cases, our grants should be for projects considered essential by the Government of India.
- (12) The constitution of Managing Body should be approved by Central Government which should have the right to nominate its representative on it.

N.B.—In making the grants it should be borne in mind that the institution should not, as far as possible, deviate from standards or principles laid down for institutions of similar kinds by the Central Government.

STATEMENT II

S. No.	Name of the Institution	Amount of grant paid in		Total
		1947-48		
		Rs.	Rs.	Rs.
1.	University of Delhi	5,58,037	14,10,021	19,68,058
2.	Benares Hindu University	8,63,569	4,25,000	12,88,569
3.	Aligarh Muslim University	5,10,768	50,000	5,61,768
4.	Delhi Colleges—i.e., Constituent College of the Delhi University.—			
	(i) Hindu College, Delhi	81,811	..	81,811
	(ii) St. Stephens College	63,875	..	63,875
	(iii) Ramjas College	41,931	..	41,931
	(iv) College of Commerce	48,101	..	48,101
	(v) Indraprastha College	38,970	..	38,970
	(vi) Delhi College (Previously Anglo-Arabic College)	32,000	..	32,000
5.	Lady Irwin College for Women	25,181	..	25,181
6.	Jamia Millia for Teachers Training Institution, Delhi	12,500	75,000	87,500
7.	Peoples Education Society, Bombay	15,000	3,00,000 (Bldg. grant)	3,15,000
8.	Muktesar School	1,000	..	1,00,000
9.	Grant to Hathi Barkala School	4,000	..	4,000
10.	Vinaya Bhawan, Sriniketan	25,000	1,00,000	1,25,000
11.	Visva-Bharti Shantiniketan	94,679	..	94,679
12.	Indian Women's University	7,500	..	7,500
13.	Allahabad University . . . . .	..	10,00,000	10,00,000
14.	Lady Irwin School for Girls	20,647	30,000	50,647
15.	Harcourt Butler School, New Delhi	24,678	..	24,678
16.	Union Academy, Simla	4,700	..	4,700
17.	Madras Education Society, New Delhi	9,035	..	9,035
18.	India Secretariat Association, for Simla Schools	2,908	..	2,908

In addition to the above, educational Institutions, Government have decided to give grant to the following Institutions from this year :—

Banasthali Vidyapith, Jaipur	25,000	1,00,000	..
Indian Women's University, Bombay	6,00,000 (N. R.) or 25 per cent. of the total expenditure on building programme.		
Gurukul University Kangri	25,000		
Montiasori Training Centre, Adyar, Madras	20,000		

सेठ गोविन्द दास: क्या गवर्नमेंट की पालिसी यह भी है कि जो युनिवर्सिटियां बहुत पुरानी हो गई हैं और जिनका काम अच्छी तरह से चल रहा है उनकी निस्बत जो युनिवर्सिटियां अब नयी हैं और जिनका काम अब शुरू हुआ है उनको ज्यादा ग्रान्ट दिया जाय।

Seth Govind Das: Is it the policy of the Government to give more grant to the new Universities which have started functioning recently than to those that are old and are functioning quite satisfactorily?

آنریبل مولانا ابوالکلام آزاد: بہت سی چیزیں سوچنے کی ہیں۔ یہ چیز بھی گورنمنٹ کے سامنے ہے۔

The Honourable Maulana Abul Kalam Azad: There are many things to be considered over. This is also under consideration.

Shrimati G. Durgabai: Arising out of answer to part (a), may I know what is the policy of the Government in the matter of giving grants to institutions and the Universities which are following a policy of communalism with regard to admissions into the colleges and other institutions?

آنریبل مولانا ابوالکلام آزاد: پالیسی یہ ہے کہ تعلیم کے مہدان میں وہ کمیونٹی انسٹی ٹیوشنوں کو پسند نہیں کرتی جہاں تک سنٹرل گورنمنٹ کا تعلق ہے دو یونیورسٹیوں کے سوا اور کوئی ایسا انسٹی ٹیوشن نہیں ہے۔

The Honourable Maulana Abul Kalam Azad: The policy of the Government is that they do not appreciate the existence of communal institutions in the educational sphere. So far as the Central Government is concerned, there is no other such institution except two Universities.

डा० पी० एस० देशमुख: क्या माननीय मंत्री जानते हैं कि यह कानून इसलिए बनाये गये कि कम्यूनलिज्म (Communalism) को हटाया जाय और अगर किसी खास कम्युनिटी (Community) की कोई संस्था मौनोपली (Monopoly) हो तो हटाई जाय

Dr. P. S. Deshmukh: Is the Honourable Minister aware that these rules were framed with a view to root out communalism and the monopoly, if any, of any particular community or organisation, should be removed?

آنریبل مولانا ابوالکلام آزاد: آنریبل ممبر کا سوال میں سمجھ نہیں سکتا۔

The Honourable Maulana Abul Kalam Azad: I have not been able to follow the question.

मिस्टर स्पीकर: में भी आपका कुछ मतलब नहीं समझा ।

Mr. Speaker: I also could not follow you.

Dr. P. S. Deshmukh: Does the Government know that restrictions on certain communities having monopolies, are intended for the reduction of the communal atmosphere in the institutions and not otherwise? Does the Honourable Minister know that?

آنریبل مولانا ابوالکلام آزاد: گورنمنٹ کو اسکا موقعہ نہیں ملا ہے۔ کہ ملک کے تمام کمیونٹی انسٹی ٹیوشنوں کے مقصد کی کھرائی کے ساتھ جانچا ہو۔ جو بات آنریبل ممبر نے کہی ہے: یہ مقصد بھی ہو سکتا ہے۔

The Honourable Maulana Abul Kalam Azad: Government have had no opportunity to carefully examine the aims and objects of all the communal institutions in the country. What the honourable member has stated may also be the intention.

श्री एच० वी० कामत: गवर्नमेंट क्या गहराई के साथ देखेगी या नहीं ?

Shri H. V. Kamath: Will Government go deep into the matter or not?

Mr. Speaker: Order, order.

श्री महावीर त्यागी: क्या जामया मिलिया भी उन तीन युनिवर्सिटियों में से है जिन को कि गवर्नमेंट ने ग्रांट देने के लिये रिकॉग्नाइज़ (recognise) किया है ?

Shri Mahavir Tyagi: Is Jamia-Millia also one of the three institutions which have been recognised by the Government for the payment of a grant?

آنریبل مولانا ابوالکلام آزاد: نہیں

The Honourable Maulana Abul Kalam Azad: No.

श्री महावीर त्यागी : क्या जामया मिलिया को ग्रांट दिया गया है ?

Shri Mahavir Tyagi: Has any grant been given to the Jamia-Millia?

— آنریبل مولانا ابوالکلام آزاد: ہاں ٹیچرس ٹریننگ انسٹی ٹیوٹ کے لئے

The Honourable Maulana Abul Kalam Azad: Yes. For Teachers' Training Institute.

श्री महावीर त्यागी: क्या गुरुकुल कांगड़ी से भी ग्रांट के लिए दरखास्त बाई थी ।

Shri Mahavir Tyagi: Was any application received from Gurukul Kangri also?

آنریبل مولانا ابوالکلام آزاد: آئی تھی اور انکو گرانٹ دی گئی ہے۔

The Honourable Maulana Abul Kalam Azad: It was received and a grant has been given to them.

GRANTS TO HINDI SAHITYA SAMMELAN, ALLAHABAD

311. *Seth Goyind Das: Will the Honourable Minister of Education be pleased to state:

(a) whether Government are aware that a sum of Rs. 5 lakhs was sanctioned as grant-in-aid to Hindi Sahitya Sammelan, Allahabad;

(b) if so, whether the amount has already been given to the Hindi Sahitya Sammelan;

(c) whether any such grant is also given to some other similar institutions; and

(d) the names and addresses of such institutions?

آنریبل مولانا ابوالکلام آزاد: (a), (b) ہاں۔ گورنمنٹ نے منظور کیا ہے کہ ہندی ساہتیہ آلہ آباد کو نون ریگرننگ گرانٹ پانچ لاکھ کی اور سالانہ گرانٹ چالیس ہزار کی دی جائے۔ پانچ لاکھ کی رقم اس کام کے لئے ہے کہ وہ دہلی میں اپنی عمارت بنا سکے۔ یہ رقم دو برس کے اندر پھیلا کر دی جائیگی۔ یعنی 1948-1949 اور 1949-1950 میں۔

(c) اور (d) ایک لسٹ ہاوس کے ٹیبل پر رکھی جاتی ہے۔

The Honourable Maulana Abul Kalam Azad: (a) and (b). Government have agreed to give a non-recurring grant of Rs. 5 lakhs spread over a period of two years with effect from 1948-49 to the Hindi Sahitya Sammelan, Allahabad, for the construction of a building in Delhi. They have also agreed to give a recurring grant of Rs. 40,000 per annum to the Hindi Sahitya Sammelan. The grant will be payable on fulfilment of certain conditions.

(c) and (d). A list of the literary and Scientific Institutions getting the grants from the Centre is placed on the table.

List

Of Literary and Scientific Institutions in receipt of a Grant from Govt. (Ministry of Education)

Sl. No.	Name of the Institution
1.	Bose Research Institute, Calcutta.
2.	Bhandarkar Oriental Research Institute, Poona.
3.	Indian Academy of Science, Madras.
4.	Royal Asiatic Society of Bengal, Calcutta.
5.	Indian Association for the Cultivation of Sciences, Calcutta.
6.	National Institute of Sciences, Delhi.
7.	Vishwasharanand Vedic Research Institute, Hoshiarpur.
8.	Rama Krishna Mission Institute of Culture, Calcutta.
9.	Dharma Kosha Mandal, Wai.
10.	Indian Science Congress, Calcutta.
11.	Indian Botanical Society, Calcutta.
12.	Bharata Itihasa Sanshodhak Mandal, Poona.
13.	Pracyavani, Calcutta.
14.	Hindustani Culture Society, Allahabad.
15.	Indian Chemical Society, Calcutta.
16.	Deccan College Post-graduate and Research Institute, Poona.
17.	Indian Statistical Institute, Calcutta.
18.	Mahabodhi Society, Calcutta.
19.	Tamil Academy, Madras.
20.	Anjuma-e-Traqui-e-Urdu, Delhi.
21.	Hindi Sahitya Sammelan, Allahabad.
22.	Indian Institute of Science, Bangalore.
23.	Visva Bharati, Santiniketan.

सेठ गोविन्द दास : क्या ग्रांट देने के पहले गवर्नमेंट ने हिन्दी साहित्य सम्मेलन से कोई शर्त कराना चाही थी ? और क्या यह सच बात है कि कुछ और संस्थाओं को ग्रांट दी गई है जिनसे और कोई शर्त नहीं कराई गयी ।

Seth Govind Das: Did the Government lay down any condition for sanctioning the grant to the Hindi Sahitya Sammelan? And whether any such condition was laid down for certain other institutions who were given the grant?

آنریبل مولانا ابوالکلام آزاد : کوئی خاص شرط نہیں کرائی گئی۔ لیکن گورنمنٹ نے گرانٹ دینے کے لئے کچھ عام شرطیں بنا رکھی ہیں جو سب کے لئے کام میں لائی جاتی ہیں وہی شرطیں سہیلن کو بھی دکھائی گئی تھیں۔

The Honourable Maulana Abul Kalam Azad: No special condition was laid down. The Government have laid down some general conditions regulating the payment of grant which are applicable to all cases. These conditions were communicated to the Sammelan.

Shri O. V. Alagesan: Will Government consider the making of a grant to the Dakshina Bharat Hindustani Prachar Sabha Madras which is engaged in the work of propagation of Hindustani in South India?

مولانا ابوالکلام آزاد: گورنمنٹ کے پاس کوئی درخواست نہیں آئی ہے۔

The Honourable Maulana Abul Kalam Azad: The Government have not received any application.

GRANTS TO PROVINCES FOR POST-WAR DEVELOPMENT SCHEMES

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

(a) the policy of the Government of India regarding giving of grants-in-aid to Provincial Governments for post-war development schemes;

(b) whether any amounts have already been paid to Provincial Governments for the purpose; and

(c) what is the amount paid to the Provincial Government of the Central Provinces and Berar for this purpose?

The Honourable Shri K. C. Neogy: (a) I would invite the attention of the Honourable Member to the reply given to question No. 761 and paragraph 37 of Mr. Chetty's budget speech for 1948-49.

(b) Yes.

(c) The amount paid upto 14th August 1947 is Rs. 98 lakhs.

Mr. Speaker: The Question Hour is over.

(B) WRITTEN ANSWERS

WELFARE SERVICES FOR ARMY MEN IN KASHMIR

313. *Shri V. O. Kesava Rao: (a) Will the Honourable Minister of Defence be pleased to state whether Government are aware of the criticism that the Welfare Services for our Army men fighting in Kashmir is unsatisfactory?

(b) If so, what do Government propose to do in the matter?

(c) What are the amenities provided at present?

The Honourable Sardar Baldev Singh: (a) No.

(b) Does not arise.

(c) Amenities to our troops in Kashmir have been provided on a liberal scale. I lay on the table of the House a statement giving details.

Statement

The following are details of the amenities provided for our troops fighting in Kashmir:

- (i) *Radio Sets.*—30 main sets and 180 battery sets.
- (ii) *Gramophones.*—80 gramophones with a sufficient number of records.
- (iii) *Harmoniums.*—10.
- (iv) *Mobile Cinemas.*—Two 16 mm Mobile Cinema Units are operating in Kashmir. They exhibit educational and commercial films. This form of entertainment is very popular with the troops.
- (v) *Sports Gear.*—Rs. 11,000 worth of indoor and outdoor sports requisites have been provided. These have been augmented by sports material received from Troop Ships.
- (vi) *Libraries and Literature.*—Field library system has been introduced. 32 field library boxes each containing about 90 books of different languages are under circulation. Besides, 3,000 vernacular books were supplied to the troops.
- (vii) The following daily and periodical newspapers are supplied:

Statesman	...	...	100 copies.
Hindustan Times	...	...	100 "
News Chronicle	...	...	100 "
Nav Bharat	...	...	150 "
Tej	...	...	50 "
Preet	...	...	50 "
Vertaman	...	...	50 "
Dinamani	...	...	50 "
Anand Bazar Patrika	...	20	"
Mathru Bhumi	...	20	"
Lokamanya	...	30	"
Fauji Akhbar	...	30	"
Ajka	...	100	"
Maya	...	50	"
Manzil	...	50	"
Chitra	...	50	"

- (viii) *Clubs*.—Officers, JCOs and ORs clubs have been opened in Kashmir. A grant has been made for this purpose.
- (ix) *Indian Forces Welfare Ladies Committee*.—The Indian Forces Welfare Ladies Committee under the Presidentship of Lady Bucher is taking a keen interest in Welfare matters of the troops in Kashmir. The Committee are sending gift parcels containing useful commodities like blades, soaps, groundnuts, kerchiefs, cigarettes, blankets, socks, toilet requisities, received from businessmen.
- (x) *Future plans*.—As it is difficult to exhibit modern films with 16 mm projectors, it is proposed to raise two 35 mm projector Mobile Units and to exhibit modern films.
- (xi) *Concert Parties*.—A touring Concert Troupe is being organised for entertaining troops in the field. It is expected the first performance will be put on board in 15 to 20 days.
- (xii) A further supply of 130 battery sets will be made to the units in the near future.

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**DEPUTATIONISTS FROM PROVINCES AND STATES IN GOVERNMENT OF INDIA
SECRETARIAT**

314. *Shri V. C. Kesava Rao: (a) Will the Honourable Minister of Home Affairs be pleased to state whether Government propose to absorb the deputationists from the Provinces and States at present working in the Central Secretariat?

(b) If so, how do Government propose to fix their seniority in relation to the temporary staff?

The Honourable Sardar Vallabhbhai Patel: (a) and (b). The question is under consideration and a decision is expected shortly.

I. C. S. AND I. A. S. OFFICERS LENT TO EAST PUNJAB

315. *Giani Gurmukh Singh Musafir: Will the Honourable Minister of Home Affairs be pleased to state:

(a) the number of officers, I.C.S. and I.A.S. lent to the East Punjab Government after 15th August, 1947;

(b) the number of those who are still there;

(c) the period for which they are likely to remain there; and

(d) the number of officers likely to be sent to East Punjab out of those who are to be recruited under the Emergency Recruitment Scheme?

The Honourable Sardar Vallabhbhai Patel: (a) to (c). Twenty three Indian Administrative Service Probationers were lent to the Provincial Government in the first week of September 1947 in order to assist them in tackling the refugee problem. They were withdrawn by the end of November 1947 and were sent to their respective Provinces. The East Punjab Government were also given the services of an I.C.S. officer who belongs to the cadre of that Province but had been permanently seconded to the Finance-Commerce Pool cadre of the Government of India. His services were originally asked for till 10th September 1948 but he is likely to continue to remain in East Punjab for some time longer.

(d) The number of officers required for the East Punjab Indian Administrative Service cadre under the Emergency Recruitment Scheme is six. Six officers will be appointed to the East Punjab cadre of the Indian Administrative Service.

DEVELOPMENT OF NAVAL BASES ON ORISSA COAST

316. *Shri Biswanath Das: Will the Honourable Minister of Defence be pleased to state:

(a) whether Government are aware of the fact that the first naval fight in the Bay of Bengal during the Japanese invasion of 1942 took place near the Kugang sea coast in Orissa;

(b) whether Government have taken into consideration the fact that Chittagong and Akayab ports, which were under Britain, are no more available to India as naval bases;

(c) the arrangements Government are making for the protection of the east coast, and especially the coastline of Bengal and Orissa;

(d) whether Government have considered and investigated the utilisation of the vast Chilka lake or the deeper part of the sea for the above purpose as also for giving protection to our navy; and

(e) the opinion of the naval experts in this regard?

The Honourable Sardar Baldev Singh: (a) There was a major raid on Allied merchant shipping by a Japanese Naval Force, off the coast of Orissa, in April 1942. A number of ships were sunk by shelling and the survivors landed on the coast of Orissa. This was not, however, a battle between Allied and Japanese Naval Forces as no Allied forces were present to engage the enemy.

(b) to (e). I would refer the Honourable Member to my answer to Starred Question No. 909 asked by him on the 19th March 1948.

INDIAN MUSLIMS MIGRATING TO HYDERABAD TO JOIN RAZAKARS AND STATE ARMY

317. *Shri S. V. Krishnamurthy Rao: (a) Will the Honourable Minister of States be pleased to state whether it is a fact that nearly seven to ten lakhs of Muslims from the surrounding Union Provinces and States have gone into the Hyderabad State to join the State Army and the Razakars?

(b) What action has been taken by Government to prevent the same?

The Honourable Sardar Vallabhbhai Patel: (a) Yes; from the information available with Government about 8 lakhs of Muslims have gone to Hyderabad and have been registered as refugees, of whom about 10,400 persons are known to have joined the State Army and Police.

(b) All practicable measures were taken to discourage the movement of people in the guise of refugees.

REFUGEE BARRISTERS AND LAW GRADUATES DEBARRED FROM I. A. S. AND I. P. S

318. *Shri S. V. Krishnamurthy Rao: (a) Will the Honourable Minister of Home Affairs be pleased to state whether it is a fact that refugee Barristers and Law Graduates are debarred from applying for the Central Administrative and Police Services advertised by the Government of India?

(b) Do Government propose to consider the removal of the restriction to enable such of the refugees as are otherwise fit to find employment in these services?

The Honourable Sardar Vallabhbhai Patel: (a) Refugee Barristers and Law Graduates are eligible to apply like other Barristers and Law Graduates, if they fulfil the prescribed qualifications which *inter alia* require that a candidate should possess a First or Second Class Degree in Arts, Science or Commerce.

(b) Does not arise.

AMENITIES AT WAGAH CUSTOMS POST

319. *Sardar Bhopinder Singh Man: Will the Honourable Minister of Finance be pleased to state:

(a) whether Government are aware that there are no seating arrangements at our Wagah Customs post for traders as well as visitors;

(b) whether Government are aware that there are no arrangements for meals or drinking water;

(c) whether Government are aware that there is no fixed place for parking cars and trucks, and that these places are often changed; and

(d) whether it is a fact that the Indian coolies are not permitted to re-cross the border after 5-30 in the evening?

The Honourable Shri K. C. Neogy: (a) As Wagah is in Pakistan, the Honourable Member is presumably referring to Attari Road land customs station. There are no regular seating arrangements there. When visitors or traders come to see Customs Officers in connection with official business, they are offered seats.

(b) Yes, but there is a well near the Customs Post from where drinking water can be had.

(c) There are fixed places for parking cars and trucks. These places are not changed often.

(d) No. The Land Customs Station operates from 6-00 a.m. to 6-00 p.m. daily. Pedestrian and private vehicular traffic through Customs station is permitted freely in either direction up to 8-00 after which it is stopped by the joint Military Check posts.

SYDNEY COTTON'S FLIGHT TO HYDERABAD OVER INDIAN TERRITORY

320. *Giani Gurmukh Singh Musafir: (a) Will the Honourable Minister of States be pleased to state the circumstances, under which Mr. Sydney Cotton was allowed to take off his 'Lancaster' Plane from Karachi airfield and directly fly to Hyderabad without landing at Bombay and then return to Karachi?

(b) Is it a fact that he violated the Civil Aviation Regulations of India? If so, what steps do the Government of India propose to take to prevent such violations in future?

The Honourable Sardar Vallabhbhai Patel: (a) and (b). I would invite the Honourable Member's attention to the answer given by the Honourable the Prime Minister in answer to his starred question No. 21, on the 9th August 1948.

RELIEF TO HINDUS MIGRATING FROM HYDERABAD

321. *Dr. Bakhshi Tek Chand: Will the Honourable Minister of States be pleased to state:

(a) the number of Hindus who have migrated from Hyderabad State to the Indian Union since the 1st of January, 1948;

(b) whether the number of such persons has been progressively increasing; and

(c) what arrangements, if any, have been made by the Government of India and the Provincial Governments for providing shelter and other relief to such of these refugees as are in need of them?

The Honourable Sardar Vallabhbhai Patel: (a) The information is being collected and will be placed on the table of the House when complete.

(b) Reports received from Provincial Governments indicate that it is so.

(c) The Provincial Governments concerned, *viz.*, Bombay, Madras and the Central Provinces and Berar are providing shelter and relief to these people. The Central Government are in consultation with the Provincial Governments regarding additional relief to refugees.

Wednesday
18th August, 1948

CONSTITUENT ASSEMBLY OF INDIA

(LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Official Report

Volume VI, 1948

(9th August to 31st August, 1948)

THIRD SESSION

OF THE

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

1948



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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES.

(PART II - PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Wednesday, 18th August, 1948

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

QUESTIONS AND ANSWERS

(See Part I)

11-48 A. M.

BANKING COMPANIES BILL

EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Shri K. C. Neogy (Minister for Finance and Commerce): May I make a formal motion? I beg to move:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to consolidate and amend the law relating to banking companies be extended up to Wednesday, the 25th of August 1948."

I understand two meetings of the Select Committee were held but further meetings could not be held due to circumstances of which we are aware. I therefore hope that the House will grant this extension of time.

Mr. Speaker: Motion moved:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to consolidate and amend the law relating to banking companies be extended up to Wednesday, the 25th of August 1948."

Shri M. Ananthasayanam Ayyangar (Madras: General): In this connection, Sir, I would like to make a suggestion to the House and to the Government also. Many of us who are members of the various Select Committees have been feeling that the time at our disposal is very short and we have not been able to do any justice. As a matter of fact, various Committees overlap. Therefore, many of the members of the Committee on the Banking Bill thought in consultation with the Chairman himself that Saturday and Sunday may be left free. There should be no work on Saturdays at all.

The Honourable Shri K. C. Neogy: There is no work even now on Saturday,

Shri M. Ananthasayanam Ayyangar: In addition, Friday also may be allowed free, so that on Fridays and Saturdays the Select Committees may have their sittings and expedite the work.

The Honourable Shri K. C. Neogy: No, no.

Shri M. Ananthasayanam Ayyangar: This is the suggestion that was made and it is a suggestion well worth considering, because without the Select Committee going into the matter, no work can be done; Bills cannot be placed before the Assembly and the work of the Assembly cannot be done. So this is as good work outside the Assembly as it is inside the Assembly for its purposes.

Shri H. V. Kamath (C. P. and Berar: General): May I submit, Sir, that it is not a wholesome practice to have many members—or at least some members—common to many Committees and that this should be dispensed with as far as possible, because then the work overlaps, Committee meetings clash and it is difficult for two or three meetings to be held at the same time with some common members to have to attend all of them. That is the real difficulty.

Mr. Speaker: The suggestion, I think, comes to this, that the House should not sit on Fridays and Saturdays. (*Mr. R. K. Sidhva:* "No, Sir.") That is what the suggestion of Mr. Ayyangar comes to. Of course, personally, I would be guided by the wishes of the House, but I was just going to make the remarks which Mr. Kamath has made. It is for the House to consider as to whether they should have such a large number of members on each Select Committee. I think the number is 13, 14 or sometimes even 15, although the quorum is only five. While, therefore, for effective work the minimum number of members is fixed at five, I do not see why the number of members of the Select Committee should be as much as 15 and in some cases up to 20.

Prof. N. G. Ranga (Madras: General): It is not that which causes delay. It is the Chairman.

Mr. Speaker: Whatever it be, if it is possible to reduce that number and to see that the same members are not repeated in the Committees, I believe we shall be able to do the work more economically, but it is for the House to decide. I shall be entirely in the hands of the House. My own reaction, however, was that the better remedy would be to reduce the number and not to have overlapping names.

Shri M. Ananthasayanam Ayyangar: But the real difficulty, Sir, is that the Chairman is the same. The Law Minister is the *ex officio* Chairman of all the Committees and he finds it difficult.

Mr. Speaker: But the Law Minister is not always busy in the House and the meetings of the Committee can as well be conducted outside, even within the hours in which the House is sitting, if a few members only are members of the Committee.

Shri H. V. Kamath: But, Sir, the Chairman, the Law Minister, does not always attend personally. He sends deputies.

Dr. B. Pattabhi Sitaramayya (Madras: General): The object of fixing the strength of the Committee at 15 is to enable five people to come. You cannot have a tumbler of water from a well which contains only a tumbler, but you can get a tumbler of water from a well which contains a bucket full. Similarly, you cannot get five people out of a Committee of five or six. Therefore, it is that 15 members are fixed and generally we find that only seven or eight attend the meeting at the maximum.

Mr. Speaker: That is hardly doing credit to the members concerned who are on the Select Committee. However, that is a different matter. I was considering the other aspect, namely, that if we were not to sit even for one day, are we not enforcing idleness on a large number of members of this Assembly for one whole day in the week? That point should also be considered. I quite agree that the work of the Select Committee should be done properly and efficiently and if it is done properly and efficiently the time of the House would be saved; but at the same time, this is also an aspect which

strikes me as very important. However, we need not discuss it at this stage. The members may discuss and whatever their views are, if there is a general unanimity of opinion, I shall be entirely in the hands of the House.

The question is:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to consolidate and amend the law relating to banking companies be extended up to Wednesday, the 25th of August 1948."

The motion was adopted.

CANTONMENTS (AMENDMENT) BILL

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I beg to move for leave to introduce a Bill further to amend the Cantonments Act, 1924.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Cantonments Act, 1924."

The motion was adopted.

The Honourable Sardar Baldev Singh: Sir, I introduce the Bill.

INDIAN RAILWAYS (SECOND AMENDMENT) BILL—*concl'd.*

Mr. Speaker: We shall now proceed with the further consideration of the following motion moved yesterday by the Honourable Dr. John Matthai, *namely*

"That the Bill further to amend the Indian Railways Act, 1900 (Second Amendment), be taken into consideration."

Pandit Kunzru. He was speaking yesterday.

Pandit Hirday Nath Kunzru (U. P.: General): Mr. Speaker, I dealt yesterday with the functions and powers of the Rates Tribunal and showed how wide the powers of the Tribunal were. I pointed out that the power of the Government would be confined practically to the reduction of the rates, and while the responsibilities of the Government might increase considerably in the future they would have to depend for the funds required on the permission of the Rates Tribunal at least in so far as the increase in the rates goes. I then went on to say that finding that they could not meet their obligations by increasing the rates they might be tempted to increase the passenger fares and coaching charges. I then dealt with the undesirability of divesting the Government completely of all power of increasing the rates in any case, however heavy their commitments might be.

Sir, I can understand the anxiety of my honourable friend the Minister of Transport to assure trade and industry that the Railways do not want to impose any unnecessary burden on them. There the complaint in the past has been that the rates tribunal was advisory and it therefore rested with the Government whether its recommendations were to be given effect to or not. The Government even reserved to themselves the power of not referring a complaint to the advisory rates tribunal. It seems to me that it is necessary in view of the past history of this question and the dissatisfaction that exists

[Pandit Hirday Nath Kunzru.]

in business circles to create a statutory body which will be able to deal authoritatively with such complaints as businessmen may have to make with regard to the terms laid down by the railway for the carriage of goods. But the question is whether the Precise powers proposed to be conferred on the rates tribunal in the Bill should be vested in it.

Sir, the Railway Department is not the only department whose policy is affecting the businessmen in this country; there are other departments whose actions, if not singly, at least taken in the aggregate affect businessmen more, I mean Finance, Industry and Commerce Departments. I am not aware, Sir, that any of these Departments has appointed a tribunal whose business it is to decide whether the measures proposed by the Government are sound or not. Take for instance, the Finance Department. There is an Income-tax Tribunal. But this tribunal does not decide whether the Income-tax rates are to be raised or not. It decides that certain cases falling under the Income-tax law and its judgments can be appealed against in certain cases. The decisions of the rates tribunal will be final and it will enjoy much greater power than the Income-tax Tribunal does in the field of Income-tax and no Finance Minister would ask any income-tax tribunal to say whether the scheme proposed by or the enhancements which it considered proper would be such as would be equitable in the circumstances concerned and would not impose an undue burden either on private individuals or on trade and industry.

Take again, Sir, the policy of the Government with regard to the development of industries. There too the decision of the Government is not subject to the approval of any outside body. I do not therefore see any reason why Government should in the case of rates alone part with all the power and make the rates tribunal the final arbiter in the matter. I have already said, Sir, that there ought to be a statutory body to deal with the complaints of businessmen, but I think that the Government should in an appropriate way reserve to themselves the power of seeing that they derive sufficient revenue to meet their obligations. Sir, there is a body known as the Transport Tribunal in England, which is vested with all the powers which Government propose to confer on the rates tribunals in this country, but there is one very important difference between the view taken of the latter to which I have referred in the two countries. The powers of the Transport Tribunal in England are very comprehensive, but they are subject to an over-riding provision which is contained in section 85 of the British Transport Act, 1947, which came into force only on the 1st January 1948. The section, Sir, reads as follows:

"Neither the Commission, that is the British Transport Commission nor the Transport Tribunal shall do anything in the exercise of their respective powers as respects charges and the submission, confirmation and alteration of charges, which in their opinion will prevent the Commission from discharging the Commission's general duty to secure that their revenue is not less than sufficient for making provision for the meeting of charges properly chargeable to revenue taking one year with another or which in their opinion will prevent the Commission from giving effect to any direction of the Minister under any provision of this Act."

That is the British Transport Act. The extract which I have just quoted shows that the British Government in appointing the Transport Tribunal took good care to see that they had the power to fulfil their over-riding responsibilities and they accordingly, broadly speaking, made it incumbent not merely on the Transport Commission, but also on the Transport Tribunal to bear in mind the instructions given to the Commission by the Transport Minister and the need of securing the revenues required to meet such charges as are likely to be debitabale against the railway revenues. It may be said here that as the tribunal will consist of qualified and able men, we need have no fear with regard to their judgment and if in any case, they come to an adverse decision,

we should rather revise our own views than try to force them on the tribunal. The matter is not quite so simple as this. When the Government propose, owing to the increased or increasing responsibilities to raise the rates as a whole, that is, raise not any particular class rate in relation to other class rates or the rate on a commodity, but the rates as a whole, the Commission, so far as I can judge, might call upon the Government to show that the railway administration is being carried on with due diligence and care, and if they are not satisfied on this point, they might refuse to give effect to the proposal of the Government. It is undoubtedly desirable that there should be some authority which will have the power of reviewing the administration of the railways. But, should it be this House or the Rates Tribunal? I submit, Sir, that it is the duty and privilege of this House to consider how any Government department is discharging the functions entrusted to it, and to call it to book if in its opinion, the department concerned is found to have failed in the discharge of its duties. So long as there is a democratic legislature, it seems to me, that it is, to put it mildly, undesirable to make any Committee or Commission the judge of the efficiency or the economy of the railway administration. The matter, Sir, is a very important one and I think that it will receive the attention of the Select Committee.

Before I sit down, I should like to refer to one other matter, which, in my opinion, needs to be considered more carefully than apparently it has so far been. Under clause 41 (c) complaints can be laid before the Rates Tribunal relating to the levy of unreasonable charges including terminal charges. Sir, terminal charges, which were of varying amounts in the past, are to be standardised. The Government, I understand, have re-classified the rates. Classification is based on a continuous mileage. In other words, it is telescopic. It is going to be put into force from the 1st of October 1948. One of the results of this new classification would be to standardise the terminal charges. So long as the charges are varying, it would have been possible to fix a relation between the charges levied and the services rendered by the railways. But, as soon as these charges are standardised, there will obviously cease to be a direct relation between the charges and the services rendered by the railways. Section 46 of the Indian Railways Act, 1890, which is going to be repealed laid down how disputes regarding the unreasonableness of terminal charges might be decided. As I have already said, that section is going to be repealed. In spite of the standardisation of the terminal charges, the Tribunal has been allowed to decide whether they are reasonable or not. Under section 46 as it was, the charges were to be related to the services. This correspondence cannot as I have already said, exist in the future. I do not therefore see why section 41 (c) should contain any reference to the terminal charges. I am prepared to grant, Sir, that I have not fully understood the purpose of the Transport Ministry in having drafted this section 41 (c) in its present form. I shall therefore listen with great interest to what my honourable friend the Transport Minister may have to say on this point, should he condescend to deal with it now. But the matter requires attention not merely in the opinion of an uninstructed man like myself, but also in the opinion of men who have been connected all their life with railway administration.

There are other points too to which the attention of the House may be called; but I do not think it is necessary for me to say more in order to point out how important the matters are and how necessary it is therefore that a Select Committee should be appointed to scrutinise the Bill.

With these words, I support the motion of my honourable friend Mr. Ananthasayanam Ayyangar for the appointment of a Select Committee, which, I understand, has already been accepted by the Honourable the Transport Minister.

Shri K. Santhanam (Madras: General): Sir, I would not have intervened in this debate had not two major questions of policy been raised. The previous speaker has certainly raised a most fundamental issue. Is a tribunal of the type contemplated in the Bill a proper or desirable medium for settling large issues of policy? I think it is a right question that he has raised and to a large extent I agree with him. It is the business of the Ministry, helped by the scrutiny of this legislature, to frame all issues of policy. A tribunal can come in only to scrutinise the administration of that policy and to ensure that it is fairly administered among the various interests concerned. Therefore I agree with him that clause 42 as has been drafted in this Bill is rather too wide. I agree with him that the general power to increase class rates as a whole should be vested in the Ministry, that if the Ministry raises one class rate leaving others alone it should be a proper subject to come before the Tribunal. There are so many rates, station rates and other rates, that it is obviously impossible for any Ministry to deal with them and the matter has to be left to the several administrations. And when a matter is to be left to several administrative authorities it is but right that an independent tribunal should be there to say whether these changes are made impartially or discriminatively. Therefore I think some limitation of clause 42 is needed and I am sure it will be scrutinised by the Select Committee.

The other point to which I should like to refer is the composition of this tribunal. I may inform the House that the Railway Board originally put forward a composition somewhat similar to that indicated by my honourable friend Mr. Ayyangar. But the Standing Finance Committee after great consideration turned that proposal down and advocated the present proposal. The original proposal was that the tribunal should consist of one judge, one member representing railway interests and one member representing commercial interests. In the opinion of the Standing Finance Committee for Railways this was considered undesirable because the final decision should be taken by disinterested persons and not persons who are habitually or traditionally more or less committed to any particular view. Another very important reason which weighed with the Standing Finance Committee was that in a composition of that type all the three members will have to be present at all cases, whether the complaints are about major questions of policy or about minor details. We thought that in the case of minor details each member of the tribunal should be able to sit as a separate bench and dispose of the cases. Therefore for all minor points there will be three courts while for major questions of policy the whole bench will sit as a full bench and decide. Again, if the representative of commercial or railway interests were ill or absent the entire work will be held up. It was also felt that in the case of commercial interests they vary enormously. A man acquainted with the jute trade may not be a competent person to advise on matters relating to the textile or other trade. Therefore the Standing Finance Committee thought that to provide a wide panel of railway interests as well as commercial interests and to associate suitable members from this panel for each case according to the necessities of that particular case is a much better procedure, leaving the final decision to people who have been trained to arrive at decisions after a dispassionate consideration of all relevant factors. There should be assessors technically competent to deal with all the facts of the case and to advise the judges as to how they should be appreciated. But for coming to a final decision I suggest that it is only the trained judge who can come to it without any prepossessions, who can go only on the evidence before him and come to a proper judgment. For all these reasons it was considered by the Standing Finance Committee that a tribunal consisting only of judges duly assisted by competent advisers will be a proper medium and the most effective way of dealing with complaints.

Shri M. Ananthasayanam Ayyangar (Madras: General): Is there any provision in this Bill that in place of the tribunal sitting as a whole consisting of all the three members, it is open to any member to act on behalf of the tribunal and have a sitting?

Shri K. Santhanam: There is a provision. I think the tribunal will sit together and decide which are major questions of policy and which are minor questions. When once they assort these cases they will divide into three benches on minor questions and decide them.

Shri M. Ananthasayanam Ayyangar: I do not find any provision here for any one of them sitting as a separate bench; all three must sit together.

Shri K. Santhanam: Clause 43 contains that provision. All these clauses will of course go for scrutiny to the Select Committee. But the provision is there. For these reasons the Standing Finance Committee decided that a tribunal of the type contemplated in the Bill should be set up; all other matters will go for the scrutiny of the Select Committee, and I need not take up any more time of the House. It is certainly necessary that this should go to Select Committee, and I support the motion.

Shri B. Das (Orissa: General): Sir, it is gratifying that very shortly we will have a rates tribunal. The past history of our agitation about a rates tribunal is as old as the Acworth Committee. We have been clamouring for a rates tribunal and they had a Rates Advisory Committee which functioned indifferently throughout and perhaps it has lapsed. I am not very much enamoured of the lawyer element presiding over every tribunal that this House will create. On another occasion when the Income-Tax Tribunal was under discussion I pointed out that there should be no lawyer or High Court Judge on that tribunal. It is our misfortune—but ten or twelve years hence the House will not have a preponderating influence of legal talents—that the respect which the British Raj brought to the people for justice gave India nothing, but they maintained a balance of justice. And the educated people of our country, being all lawyers, began to trot out before the public that justice can be delivered only by a High Court Judge or one who is fit to be a High Court Judge. What does the ordinary lawyer know about the rates structure of the railways? What can he do? The main function of the Rates Tribunal is in section 42 where it will fix the rates structure of this country. So why should there be a High Court judge? My lawyer friend, Mr. Naziruddin Ahmad does not agree. But I voice the opinion of those who are not lawyers and who feel that we are as honest and as judicial minded and as fair-minded as the honourable lawyer friend thinks he can be! This loyal worship of the High Court judges should be dropped in future legislation brought before this House.

I am glad that my honourable friend, Mr. Ayyangar had moved for reference of the Bill to Select Committee and that my honourable friend, Dr. Mathai accepted it. I do not know who are the members of the Select Committee. I do hope the House is seeing to it that as business men they think of the benefit to the country and not merely creating tribunals for benefit of one or two High Court judges and for the benefit of the lawyer elements who are bound to appear on one side or the other and waste Government money and also the taxpayer's money.

As regards the appointment of High Court judges I do warn the Government that they should be very careful in future. High Courts are being multiplied with the creation of new provinces and the merging of States into so many provinces and there will be so many more High Court judges. But have they got the necessary acumen, knowledge, and understanding to know the functions of a Rates Tribunal? So Government should be very careful

in future when it chooses the types of High Court judges that will sit on a tribunal like the Rates Tribunal.

[Shri B. Das.]

As for lawyers appearing before the Rates Tribunal in commercial cases I would suggest no lawyers should be allowed to appear because the assessors are there to advise and even act. As it is in the draft Bill, it does not leave the assessors any power of finality. This is an old prejudice of the Colonial Government that is dead now in India. It always wanted arbitrary powers to judge us. I would like the assessors to be given a little more definite power so that the Judges are influenced thereby, and if the assessors are there the lawyer element should be debarred so that that element may not waste public time and money in appearing before the Rates Tribunal.

The Rates Tribunal does not start with the blessings of fortune. It starts in the unfortunate position that the members thereof will find that they have got a heavy flat rate to contend with in the rates structure of India, be it for passenger rates or goods rates. There was a time when the former Government developed telescopic rates not to help Indian trade, commerce and industry, but to help British imported goods and British industry situated outside India. I pity the members of the Rates Tribunal, whoever they may be because they will find themselves in that economic position that compelled my honourable friend, the Railway Minister to raise the rates to the highest permissible maxima that he could be permitted. As my friend Mr. Santhanam has said, it is of course for the House to set the future policy of the Rates structure of India. At the same time the Rates Tribunal should be allowed a certain freedom which will be defined in the rules that the Government of India in the Railway Ministry should draft so that they could examine whether before the next Railway Budget is introduced, the rates are for the benefit of commerce and industry in India and not for the benefit of foreign trade.

I now deal with that aspect of the Bill that touches on Claims Commissioners. I do hope they will not be mere ornaments but that they will do what is contemplated of them to do. It is hoped that they will soon settle claims due to railway accidents, and that they will do so sympathetically and in the national spirit. In the past our experiences have been very bad. In the past those unfortunate deeds have been spirited away to the boilers in the railway factories.

I am talking of the past. It has nothing to do with my honourable and esteemed friend, Dr. Matthai. I am talking of the past that he has inherited. The dead or half injured in a Railway accident have been burnt in railway engines, and in railway workshops' boilers. Their names have not been traced and thousands have become orphans and widows. The dependants are starving still because a foreign Government denied them those compensations that they should have got. I hope lawyers will not preponderate there too! The Claims Commissioners will establish justice with humanity and will settle up such claims so that no harassed dependants suffer as they have suffered under the Britishers in the past.

With these few observations, I support the motion for reference to Select Committee.

Mr. Frank Anthony (C.P. and Berar: General): It is only a little while ago that I began to study this Bill and my first impression, particularly with regard to the proposal for Claims Commissioners, was not a happy one. In spite of what my friend, Mr. Das has just had to say about lawyers and the unnecessary waste of time in the proceedings and the harassment to claimants, I feel that this provision has the potentialities of a great deal of mischief. Obviously under the proposed provisions these Claims Commissioners will be appointed by the Central Government. They will be nothing if they will not

be executive officers! As such they will dance inevitably to the tune of the Executive.

I feel, Sir, that in an independent India this provision is an unhealthy and retrograde step. The settlement of claims for personal injury for example, are claims which must be adjudicated upon by a judicial body. We are seeking today definitely to separate executive from judicial functions. In that alone, this particular provision, I submit, is retrograde, because judicial functions are now being sought to be placed within the competence of executive, and perhaps junior executive officers. Even the potential mischief of this provision could be limited if section 82(h) relating to appeal and revision was altered. On the other hand the provision with regard to interim payments, if it is decided to keep Commissioners, is salutary, because where widows are involved, they may need money and if there is some interim settlement, it may be of help. I may be inclined to accept this provision for Claims Commissioners provided this provision with regard to appeal and revision is done away with. I am not at all satisfied with this provision which gives an aggrieved person the right of appeal only to the Central Government. The Central Government in this place presumably will be represented by the Railway Minister, and my own experience of the Central Railway administration is a most unhappy one. I am afraid the railway administration is nurtured in the tradition of putting its rubber stamp on anything. If a Claims Commissioner arbitrarily, or because he thinks he ought to find favour, gives a decision, I fear that the Railway Minister, because he thinks that the Claims Commissioner is one of his own men, will endorse his decision.

In this particular instance I do not know how it can be managed, whether the appeal or the revision can still lie to one of the regular courts. If that is done, any possibility of mischief, in the fact that these commissioners are executive officers, can be largely limited. Sir, that is all I have to say

The Honourable Dr. John Matthai (Minister for Railways and Transport): Sir, most of the matters which have been raised in the course of the discussion are matters which I think might appropriately be left over for consideration by the Select Committee to whom this Bill is being referred. But certain matters of a fundamental character have been raised, to which I would like to make a brief reference before the Bill is remitted to the Select Committee.

The most important point which has been raised in the course of the discussion is the point which my honourable friend Pandit Kunzru raised and that is whether the Bill is not conferring upon the tribunal powers in excess of what they should be given consistently with the public interest. This is a point which has given me a great deal of anxiety. On a review of all the considerations bearing upon this problem I ultimately decided that, at any rate, in the Bill which I place before the House I would give the tribunal the final voice in the determination of the extent to which freight rates should be increased, and divest myself of any power in regard to that matter, except for such influence as I can bring to bear upon that tribunal through a proper presentation of my case on behalf of the Ministry of Railways. It is a matter on which it is reasonable to expect that there would be wide differences of opinion. I decided to take this step, because as a student of railway rates policy and administration in the past and as a result of my own experience as Minister in charge of Railways I have come to the conclusion that the railways have a good deal to gain and possibly little to lose if they could in matters affecting the increase of freight rates secure the support of some authority, which would be accepted as a disinterested authority in this matter.

My honourable friend Pandit Kunzru raised the perfectly legitimate point "Would you do this with regard to proposals which may be put forward by the

[Dr. John Matthai].

Finance Minister in the matter of taxation, would you do it in regard to proposals of a similar kind which may be put forward by other Ministries of the Government?" It is a legitimate point to raise. My reply to that question is that there is all the difference in the world between the railways as a department of the Government and other departments. The fact of the matter is that the railways are a business concern, from whatever point of view you look at it and the question which the House has to consider is this. When you determine the prices which a business concern engaged in an essential form of public utility service and placed in a monopolistic position is going to charge, is it right that Government as the sovereign body in the country acting in the capacity of manager should have the final voice in its determination? The way I look at it—and I am perfectly willing to listen to the other side of the case when it is presented in the Select Committee—is this. Here is a big nationalised concern whose activities affect every aspect of the national economy. We raise our freight rates we lower our freight rates and every increase and every reduction are bound to have its repercussions on the national economy. Now is it altogether right, is it in the public interest that I should reserve to myself the final authority in regard to that matter? As I try to visualise the situation as it will arise when the Tribunal is seized of a particular matter referred to it and the way in which it will function, it would be somewhat as follows. If it is a really competent body composed of people who have been in the habit of weighing evidence and coming to disinterested conclusions, in matters that come before it for consideration it would have to take two essential factors into account. One is, what is going to be the reaction of these particular proposals upon the national economy, upon trade, industry and agriculture. That would be one consideration which they would in the nature of things have to take into account. The other consideration is: Would this particular business concern run by Government be able to maintain its solvency, if the proposal put forward by them was not accepted? I cannot imagine that a Tribunal of the kind that we are setting up would not take into account both these considerations in arriving at a settlement of the issues placed before it. I have every confidence that as far as the railway's case is concerned, if I put up a proposal for an increase in freight rates I can convince a competent body of that kind. If I fail—I am looking at it purely as a business proposition—if I am unable to satisfy a Tribunal of that kind I would come back and re-examine my proposals. When I say the Tribunal has to take into account whether its decision will affect the solvency of the railways, what I mean by solvency is, they would have to consider whether without an increase in freight rates the railways would be able to meet their working expenses, their overhead charges, their interest charges, their depreciation and a reasonable allocation to reserve. If the Tribunal applies its mind to this question, as it inevitably must, because it is very relevant to the whole issue, and if they come to the decision that the proposal that I have made is not essential for that purpose, then it seems to me, as a responsible Minister it is my duty to re-examine the basis on which I made my original proposals.

It occurred to me as I was listening to my honourable friend Pandit Kunzru that what was troubling him, especially in view of the analogy which he drew between the railways and other departments of Government, was not the financial solvency of the railways as a business concern but whether, if Government decided that the railways should be used in a particular emergency for a contribution to the general revenues of the country, in the interests of public finance that might not be a consideration which the Tribunal would take into account.

It is a perfectly legitimate question to consider. But it raises, as the House will realise, an issue of very great importance. It is ultimately for this House to decide what line to take with regard to a matter of such fundamental importance. As I say, I keep an open mind on that question, and I am prepared to have the matter examined over again by the Select Committee. My own reaction to the whole problem is this. Suppose without an increase in the freight rates, that is to say, on the basis of the existing freight rates, I am able to meet my working expenses, overhead charges, interest charges, depreciation and a reasonable allocation of reserve—and over and above that, as a result perhaps of increase in the quantum of traffic what I receive is more than the interests of the railways require—then it would be a legitimate thing for the House to demand that a certain portion of it should be allocated to general revenues. But if on the existing rates you are not able to provide for a contribution to general revenues, then is it right to consider an increase in freight rates in order to make that contribution possible? It raises the fundamental issue, namely, are you going to regard a nationalised transport industry as a legitimate source of revenue for general purposes? That is the question with which we shall be faced. I do not want on behalf of Government to commit myself on this question because the House will have opportunities at one time or another to consider it. The position in countries where nationalisation has been adopted on a large scale such as Russia is that in fixing the prices of products manufactured by such industries they make a certain addition as a contribution to general revenues. Probably we shall be faced with that situation ourselves. If we are to adopt nationalisation on a large scale, the question whether we shall get all the revenue we want from private enterprise is a problem which is bound to face us. It is a legitimate thing for nationalised industries to fix prices at a level which would not merely cover their normal expenditure but would provide a contribution to revenues. But the question arises, whether there are not certain categories of industries—essential public utilities—which shall be left out when charges are made simply for the purpose of adding to general revenues. Would you be justified in raising school fees in state schools in order that, that may render the revenue position of government better? Would you do that in regard to hospitals? Now, in regard to railway service, is there any fundamental distinction between it and other essential public utility services? As far as I can see, for a long time to come, in view of the great need for industrialisation in this country, it is in the public interest that the rates we charge for railway transport should be kept at as low a level as possible, consistently with the financial solvency of the railways. That is entirely a personal view. But as I say, I am prepared to keep an open mind on this question. If the Select Committee and the House consider that we ought to proceed on other lines, if they think that Government should be invested with larger powers in these matters I shall have no objection, in fact it would make my path easier. What I have done is to choose the path of greater resistance. I had a particular reason for doing so, apart from the general considerations to which I have referred. It is easy for an organisation like the Indian railways, brought up under traditions which have not altogether been of a wholesome character to solve its financial difficulties by increasing freight rates rather than, by enforcing economies. It would therefore have a restraining influence upon the railway organisation to be committed to this position that they cannot increase freight rates unless their proposals are accepted by an independent judicial body.

My honourable friend referred to the question of terminal charges. That is rather a minor matter and I should be prepared to explain to him the position when the matter comes up before the Select Committee.

[Dr. John Matthai]

Another important matter of a fundamental character was raised regarding the composition of the Tribunal. As my honourable friend Mr. Santhanam pointed out in the original proposal that was placed before the Standing Finance Committee our idea was that the Tribunal should be composed of a person of judicial or legal experience as Chairman with two members representing railway experience and business experience respectively. But the Standing Finance Committee held strongly that the composition of the Tribunal should be on the lines indicated here. Personally I was impressed with the arguments advanced by the Standing Finance Committee and in the end I decided to accept the recommendation of the Standing Finance Committee, and I took the responsibility of asking the Cabinet to accept it. It is in that form it has come here and I cannot improve on the arguments which my honourable friend Mr. Santhanam has already advanced in favour of this proposal.

There is one more point to which I would like to refer before I sit down. I think it was my honourable friend Mr. Himatsingka who said yesterday that if we were going to adopt a procedure for expediting the disposal of claims arising from accidents we might also consider the question of expediting the disposal of claims arising in respect of goods. Well, there is a fundamental difference between the two. The claims which arise in regard to theft or loss of goods are based on the assumption that the Railways' responsibility is the responsibility of a bailee. The railway incurs liability only if it is shown that the railway has failed to exercise the sort of reasonable care which a person of ordinary prudence would be expected to exercise. That is a matter which would require careful investigation. A procedure of this kind would be unworkable as far as goods claims are concerned. If you have to decide whether the railways have exercised reasonable care or not, you would not be able to do so without further examination.

My reply to the point raised by my honourable friend Mr. Frank Anthony is also that if you are going to take claims arising from accidents to court their disposal would take a longer time than they do now. My anxiety has been, considering the large number of cases that I have come across recently, that there must be some kind of procedure by which it would be possible to settle the claims of people whose needs are very great, particularly of those who have lost the bread-winners of the family, in the shortest possible time.

Mr. Speaker: I shall put the amendment to the House.

Shri M. Ananthasayanam Ayyangar: There is a slight alteration to my amendment. With your permission and with the leave of the House I would like to add the name of Dr. Punjabrao Deshmukh in the list of members of the Select Committee. As you may remember, he said yesterday that agricultural interests should be represented. I have consulted the Honourable Minister about it and I understand he has no objection.

Mr. Speaker: That name has to be added?

Shri M. Ananthasayanam Ayyangar: Yes, Sir.

Mr. Speaker: That makes the number thirteen!

The Honourable Dr. John Matthai: Suggest another name!

Shri M. Ananthasayanam Ayyangar: For another name I would suggest that of Chaudhari Ranbir Singh.

Dr. B. Pattabhi Sitaramayya (Madras: General): A secular State believing in the inauspiciousness of thirteen?

Mr. Speaker: I have no objection to these names. Has the Honourable Minister any objection?

The Honourable Dr. John Matthai: I have no objection.

Mr. Speaker: The question is:

"That the Bill be referred to a Select Committee consisting of The Honourable Dr. John Matthai, Shri K. Santhanam, Prof. Shibban Lal Saksena, Pandit Hirday Nath Kunzru, Shri Moturi Satysnarayana, Pandit Thakur Das Bhargava, Shri S. K. Patil, Shri Biswanath Das, Dr. Bakshi Tek Chand, Dr. V. Subramaniam, Prof. N. G. Ranga, Dr. P. S. Deshmukh, Ch. Rāmbir Singh, and the Mover, with instructions to report on or before the 24th August, 1948, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

Mr. Speaker: Before we adjourn, I have to state that a request has been made to me—and I understand it is supported substantially by the House—that the House may not sit tomorrow as it is the day for *Raksha Bandhan*. In deference to the wishes of the House, I accept it and the House shall not sit tomorrow.

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

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

CONTINUANCE OF LEGAL PROCEEDINGS BILL

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

"That the Bill to provide for the continuance of certain legal proceedings by or against the Secretary of State, be taken into consideration."

I think it would be desirable in order to enable the House to know exactly why this measure has been brought forth to detail to the House as briefly as may be possible the circumstances that are lying behind this Bill. As the House is aware, before the 15th August 1947 there existed an entity or a legal corporation called "The Secretary of State" which was by law entitled to sue in respect of any right or liability arising out of what was known as "The Government of India". On the 15th August 1947, that entity came to an end or rather, was brought to an end by the Indian Independence Act. The Indian Independence Act, however, recognised that while the entity known as "The Secretary of State" was brought to an end, and had to be brought to an end, there were certain proceedings which were pending in courts of law in the name of the Secretary of State in Council and consequently, the Independence Act, Section 15, sub-clause (2), gave power to the Governor-General to provide by order that these suits and proceedings shall be continued in the name of some other entity. Accordingly, the Governor-General issued an order under the provisions of the Indian Independence Act making provisions for the continuance of the proceedings that were then pending against the Secretary of State. The order is known as the Indian Independence (Rights, Property and Liabilities) Order, 1947, and was issued on the 14th of August 1947. Article 12(8) of that order made provision specifically for the continuance of the legal proceedings. Unfortunately, in the hurry of the moment, what happened was that this Article 12(8) only provided for the continuance of those suits where the suits involved the liability of undivided India or a part thereof. It failed to make any provision with respect to the right which the Secretary of State may have to continue proceedings against any party against which the right was claimed. It is to meet this defect in the Act that the present Bill has been brought forth. It is said that there are some suits pending in courts

[Dr. B. R. Ambedkar]

in India where what is involved is not the liability of the Secretary of State but the right. One such case is mentioned in the Statement of Objects and Reasons. It is pending in Bihar. But the Government of India has also been told that there are some other similar cases where a question of right as distinguished from liability is involved. In order to meet this difficulty, the Government of India had already issued an Ordinance on the 20th May 1948 to make provision for the continuance of the proceedings in which the rights of the Secretary of State were involved and what this Bill does is to convert the Ordinance into law. I do not think any further explanation is necessary. As Honourable Members will see, this is a very simple measure, a necessary one, and I believe, non-contentious. I commend this measure to the House.

Mr. Speaker: The question is:

"That the Bill to provide for the continuance of certain legal proceedings by or against the Secretary of State, be taken into consideration."

Shri Prabhu Dayal Himatsingka (West Bengal: General): Mr. Speaker, I have one point to make about this Bill, Sir.

Mr. Speaker: I am afraid the honourable member is a bit too late. I have put the motion to the House.

Shri Prabhu Dayal Himatsingka: I did not know that you were putting it to the vote. Just for the consideration of the Honourable Minister I wish to make one point.

Mr. Speaker: I think the honourable member may raise that question when we come to the clause by clause stage.

The motion was adopted.

Mr. Speaker: Clause by clause discussion now. What particular clause did the honourable member refer to?

Shri Prabhu Dayal Himatsingka: Clause 8, Sir.

Mr. Speaker: Yes, I propose to put all the Clauses together as there are no amendments.

Shri Prabhu Dayal Himatsingka: Shall I make my submission and then it will be for the Honourable Minister to see? We find from the statement made by the Honourable Minister that this Bill is being introduced to provide for the continuation of certain rights that might be subsisting in the Secretary of State and for which suits may be pending in certain courts. So far as the liabilities of the Secretary of State are concerned, that has been provided for in the Indian Independence (Rights, Property and Liabilities) Order, 1947, but this Bill is intended to deal with rights only. Therefore, I cannot follow why in clause 8(b) (ii) it is said:

"(ii) if the right in question was that of the former Province of Bengal or the Punjab, be continued by or against the Province of West Bengal or East Punjab, as the case may be;"

If it is a question of right, there cannot be a proceeding against the Province of Bengal. It must be by the Province of Bengal. The word "against" can only be possible if there is a question of liability of the province, and so far as the Independence Act is concerned, it has been provided therein, as far as I know,—I have not got it here—that in the case of liabilities of undivided Bengal they have been cast on East Bengal (Pakistan) because that is the major portion and the liabilities for the Punjab have been cast on West Punjab. Therefore, "against" West Bengal or "against" East Punjab should not be there, because it is only a case of providing for certain

rights of the Secretary of State. That is my only submission in this connection.

The Honourable Dr. B. E. Ambedkar: I have not quite followed.

Sri Prabhū Dayal Himatāngka: The position is this. There cannot be a suit against a province in connection with certain rights that the Government had. It can only be a suit by the province or by the Government.

Mr. Naziruddin Ahmad (West Bengal: Muslim): With regard to clause 3, last line and one word before, "be continued by or against that province" should, I submit, be brought out separately. The introduction begins at the beginning of the clause "Any legal proceedings, which immediately before the appointed day...". As it is printed, it seems to be appertaining to part (iii) of sub-clause (b) only. Therefore in order to obviate all misunderstanding at the time of printing this should be separated and printed so as to show that it governs all the sub-clauses.

Mr. Speaker: That seems to be the position even now. I have not followed. That may be done at the time of printing.

Shri M. Ananthasayanam Ayyangar (Madras: General): As I understand my honourable friend in the Statement of Objects and Reasons both rights and liabilities are referred to, but here the right alone is referred. So liability may be added. That is all that is necessary. I am reading the Statement of Objects and Reasons: "Section 15(2) of the Indian Independence Act, 1947, provides *inter alia* that any legal proceedings by or against the Secretary of State in respect of any right or liability of the undivided India or any part thereof,....." I think by some inadvertence the word "liability" is not used here whereas in clause 3(b), it is said: "were in respect of any right of India or any part of India, shall.....". So, if we add the words "or liability" after the word "right" wherever it occurs, that will satisfy the needs.

Shrimati G. Durgabai (Madras: General): If only the word "right" is mentioned, the word "against" may be deleted.

Mr. Speaker: What part is he referring to?

Shri M. Ananthasayanam Ayyangar: I am referring to Section 3, clause (b) which reads as follows: "Any legal proceedings which immediately before the appointed day,—(b) were in respect of any right of India or any part of India, shall, (i) if the right in question was that of the Governor General in Council, be continued by or against the Dominion of India;". If there is a right in the Dominion of India there is no suit against the Dominion of India; it is a liability. Therefore "be" is all right. If a suit by the Dominion of India is by virtue of a right, a suit against the Dominion of India is by virtue of a liability. Now this will be clear on a reference to line 3 in the Statement of Objects and Reasons where both rights and liabilities are contemplated. If there is a right of suit it will be by the Dominion of India and if there is a liability it will be against the Dominion of India. Therefore in clause 3(b), in parts (i), (ii) and (iib) after the word "right" the words "or liability" may be added.

Mr. Speaker: I am not very clear about that. It seems there is some confusion. The honourable member will refer to the Statement of Objects and Reasons where the words "right or liability" occur in line 3, before statement as to the *lacuna* in the provisions of the Indian Independence (Rights, Property and Liabilities) Order. But, later on, at page 2, it is stated: "This Article does not cover proceedings in respect of any right of the undivided

[Mr. Speaker.]

India". So far as liabilities are concerned, the matter is covered. Looking to the Statement of Objects and Reasons this particular Bill, appears to have been brought only for the purposes of curing this defect in respect of rights of the undivided India and if that is taken into consideration, the language does not seem to go against that purpose. I do not know what the object of the draftsman was.

The Honourable Dr. B. E. Ambedkar: I think the word as it stands is perfectly right. As I stated we are dealing only with "right". The question of liability has already been provided for. Now, why the word "right" is there? Why it should be there will be clear if my honourable friends will bear in mind two points. We are dealing with legal proceedings. We are not dealing with suits only, which means that legal proceedings may also include an appeal. Suppose for instance, there is a suit disposed of. The Secretary of State wants an appeal to be made or filed. This appeal may be based upon some right which he may claim. Secondly even if a suit is filed against the Secretary of State, the defence of the Secretary of State may involve a right, which vests in him. Therefore my submission is that the word "right" is there and ought to be there.

Mr. Speaker: That seems to be the correct position. The point seems to be that even in respect of rights, there may be proceedings against the Secretary of State. Then, it need not necessarily be "by". There is one other point which I believe Mr. Naziruddin Ahmad has made out and that, will be borne in mind at the time of printing. It is a question more or less of printing.

Shri K. Santhanam (Madras: General): Sir, with reference to "liability", the suit can be continued, against the Secretary of State or the Government of India and no Bill is needed to continue those legal proceedings. It is where legal proceedings cannot be instituted or continued because of the right of the Government of India that the operation of the present Bill comes in. Therefore, I do not think the defence is quite convincing.

Mr. Speaker: The honourable member goes to the root of the whole thing. This Bill is merely for the purposes of procedure. I think the "right" is there not for the purpose of establishing the right. If the right is there, then the difficulty arises about enforcing that right through legal proceedings. Therefore, the Bill becomes a necessity. The other point will be one for the printer and we shall invite attention to that point later on.

The question is:

"That clauses 2 to 5 stand part of the Bill."

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

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

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

DISPLACED PERSONS (INSTITUTION OF SUITS) BILL

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

"That the Bill to make certain special provisions for the institution of suits by displaced persons, be taken into consideration."

Sir the Government of India some time ago received various representations from persons interested in what are called evacuees, who have come out from Pakistan to India, to the effect that they find it extremely difficult to have their claims adjudicated by courts in India. Now, there are several cases which have to be considered in giving relief to these evacuees. Obviously, there are two cases which one can think of. One is a case where the cause of action has arisen in Pakistan, the plaintiff has come over to India and the defendant is still in Pakistan. Then, we have a second case, namely, that as before, the cause of action has arisen in Pakistan, the plaintiff has come over to India, and the defendant is residing in India. The Department considered whether it was possible to bring forth any measure in order to give relief to the plaintiffs who are evacuees in both those cases.

It is obvious that unless certain conditions are satisfied, it is not possible to give relief to an evacuee plaintiff who has come over to India, but the defendant against whom he has a claim is in Pakistan. The reason why it is not possible to give relief in a case like this is because it would be almost impossible to execute a judgment or decree given by our courts against a defendant who was not present before the court and who is a resident of Pakistan. Unless and until the Government of India and the Government of Pakistan agree to issue notifications under section 44-A of the Civil procedure Code, agreeing mutually that the decrees given by the courts of one dominion will be executed by the other dominion, such a decree would be a fruitless thing and of no value.

The case which I said is of the second type stands on a different footing. Because, on the assumption that the defendant against whom the plaintiff wants to sue is a resident of India, it would be perfectly possible for the Government of India by law to make a provision that such a plaintiff may be entitled to sue because the defendant is within the territory of India, subject to the jurisdiction of the courts of India, and can therefore be made to accept the decree passed by the court. The Bill, as introduced, makes provision for the second case. Its requirements are that the plaintiff must be a displaced person, the defendant must not be a displaced person, but the defendant must be a resident in India. The purpose why this is done is because, it is represented that the evacuees who are staying in India today, on account of their poverty and their pecuniary condition cannot proceed from the place where they are staying to the place where the defendant is staying and sue him there as required by the Civil Procedure Code. In order to grant relief to the plaintiff, the Bill provides that the plaintiff, contrary to the provisions of Section 20 of the Civil Procedure Code, may file a suit against the defendant who is residing in India, in the place where the plaintiff resides. That is all that the Bill as it stands does. The Bill also makes certain amendments in the law of limitation.

It has been suggested by members of the legislature who are acquainted with the conditions of the evacuees, that there are certain other cases, which also require to be provided. I have examined those cases and I feel that there is sufficient justification for introducing certain amendments to meet those cases. I shall do so when you will take the Bill clause by clause. At the moment, this is the purpose of the Bill namely to permit the evacuee plaintiffs to file suits, contrary to the provisions of section 20 of the Code of Civil Procedure, in the place where they reside and not in the place where the defendants reside.

Mr. Speaker: The question is:

"That the Bill to make certain special provisions for the institution of suits by displaced persons, be taken into consideration."

The motion was adopted:

Mr. Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

The Honourable Dr. B. R. Ambedkar: With your permission, Sir, I move the following amendment:

"That for clause 3 of the Bill, the following be substituted:

3. *Institution of suits by displaced persons.*—(1) Notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (V of 1908) or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary, a displaced person may institute a suit in a court within whose jurisdiction he or the defendant or any of the defendants, where there are more than one, actually and voluntarily resides, or carries on business, or personally works for gain if—

- (i) the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides, or carries on business, or personally works for gain in India, and is not a displaced person;
- (ii) the cause of action wholly or in part arises or has arisen, in a place now situated within the territories of Pakistan;
- (iii) the court in which the suit is instituted is otherwise competent to try it; and
- (iv) the suit does not relate to immovable property.

(2) Any suit instituted by a displaced person after the 15th day of August 1947, which if this Act had come into force on that day, would have been validly instituted in pursuance of sub-section (1) of this section shall, unless such suit has been finally disposed of before the commencement of this Act, be deemed to have been validly instituted and be disposed of accordingly."

Sir, the new amendment deals with two cases, which have been brought to my notice. The first is that in certain cases where the cause of action would arise in Pakistan, an agreement had been made, or is usually made, between the plaintiff and the defendant that the suit shall be filed in Lahore or in some court now situated within the Dominion of Pakistan. It is obvious that if such an agreement between the plaintiff and the defendant were to continue to have the effect which it would have if there had not been partition, it is quite clear that it would not be possible for a displaced person to file a suit against a defendant, although according to the main provisions of the Bill, the defendant is residing in India and is not a displaced person. Therefore I think it is desirable that the provision of such an agreement should be nullified in order that the plaintiff should obtain the benefit of the law which we are now making.

The second thing is this. It is rather surprising but I am told it is a fact that although there was no such provision in any part of the Civil Procedure Code some displaced persons who had come to India had filed suits against defendants in India although those suits were contrary to the provisions of section 20 of the Civil Procedure Code. It is said this was no doubt done in ignorance, but that ignorance should now be condoned and the Act should be given retrospective effect so that suits filed before the passing of this Act should also be deemed to have been validly filed. Our intention being to give as ample relief to displaced persons as we possibly can and in view of the introduction of these two new provisions in the amending clause that I

am submitting to the House I hope the House will not find any difficulty in accepting this new clause.

Mr. Speaker: Amendment moved:

"That for clause 3 of the Bill, the following be substituted :

'3. *Institution of suits by displaced persons.*—(1) Notwithstanding anything contained in section 20 of the Code of Civil Procedure, 1908 (V of 1908) or in any other law relating to the local limits of the jurisdiction of Courts or in any agreement to the contrary, a displaced person may institute a suit in a court within whose jurisdiction he or the defendant or any of the defendants, where there are more than one, actually and voluntarily resides, or carries on business, or personally works for gain if—

- (i) the defendant, or where there are more than one, each of the defendants, actually and voluntarily resides, or carries on business, or personally works for gain in India, and is not a displaced person;
- (ii) the cause of action wholly or in part arises or has arisen, in a place now situate within the territories of Pakistan;
- (iii) the court in which the suit is instituted is otherwise competent to try it; and
- (iv) the suit does not relate to immovable property.

(2) Any suit instituted by a displaced person after the 15th day of August 1947, which if this Act had come into force on that day, would have been validly instituted in pursuance of sub-section (1) of this section shall, unless such suit has been finally disposed of before the commencement of this Act, be deemed to have been validly instituted and be disposed of accordingly."

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, the right that is conferred in this Bill is an exceptional right. Normally when a suit is to be filed it is not left to the choice of the plaintiff to file it wherever he likes. It depends on two considerations: (a) where the defendant resides, and (b) where the cause of action wholly or in part arises. Neither of these two conditions may be satisfied by a plaintiff who is a refugee. If the cause of action has arisen in Pakistan he cannot go and file a suit there. As for the defendant's place of residence it may be anywhere right down to Cape Comorin and he will have to run about and find the place. Therefore it is an enabling measure and I am sure its operation will be only for a temporary period. I do not, however, find any limitation of time or period during which this will be in operation. I realise that some latitude should be given to persons who have come away from Pakistan to enable them to file suits wherever they are. They may be transferred, they may be settled in Madras or West Bengal. The cause of action may have arisen elsewhere in Pakistan and a suit may be filed against a resident of Bihar in a Bengal court. But how long is this to be allowed? Should it be indefinitely or as long as the cause of action lasts? Supposing there is a period of ten years; he may file a suit in ten years. Why should he wait and not seek the place where the defendant resides and then proceed against him? The Honourable Minister has to satisfy us that unlimited time should be provided. We can give this privilege only according to circumstances for a short period of time, i.e., one or two years as the case may be.

Secondly, this Bill consists of two portions: first, the forum or place where the suit is filed; that is covered by clause 3. Secondly, even if he was not able to file a suit within the prescribed time, time is allowed notwithstanding Limitation Act, section 3, to cover the intermediate period. There are many such provisions in the Limitation Act where by fraud a man has been kept away from the knowledge of the fraud of the defendant. These are exceptional circumstances. This I agree is an exceptional circumstance where such limitation ought not to be strictly enforced against a plaintiff on account of the adverse circumstances in which he had to flee from his place. But even with respect to that there must be a limitation in point of time.

[Shri M. Ananthasayanam Ayyangar]

No doubt power may be given to the court to find out whether there is sufficient justification or not about the period. But if the Honourable Minister feels that this is too vague a concession which sometimes is likely to be abused, a limit of time has to be imposed,—a year or two within which everything must settle down.

Sir, I am extremely glad that the Honourable Minister has thought it proper to bring this Bill which is a very necessary measure to help the refugees for whom various other steps are being taken by Government.

Shrimati G. Durgabai (Madras: General): Sir, with regard to the point about limitation it is clear from clause 4 that the normal period of limitation is in operation, and only in exceptional cases is that period waived. "When the plaintiff satisfies the Court that he was unable to institute the suit within such period owing to causes connected with his being a displaced person"—it is only then that he is given some kind of relief. Otherwise, as I read the clause, the normal period of limitation is to be followed.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I find that my amendments in list No. 1 have been incorporated in this amendment. With regard to this I have two suggestions to make. The word "Court" has been spelt in two places with small letters. Somehow or other the Law Ministry has a poor idea of Courts and want to belittle their importance. I think in the Civil Procedure and Criminal Procedure Codes and other Acts the word "Court" always begins with a capital letter. I think it is rather a slip of the pen.

I would suggest that one word should be introduced in part (i) of sub-clause (1) for "the defendant, or where there are more than one" I should say "..... more than one defendant". That should make the sense complete. Otherwise there would be a gap. As it is, it is intelligible, but it is the custom to fill up such gaps and not to leave them as if it is in correspondence between one friend to another.

These are the two suggestions I have to make. This is by way of amendment because this has been circulated here. I therefore, beg to move:

"That in the proposed amendment to clause 3, in part (i) of sub-clause (1) after the words 'more than one', the word 'defendant' be inserted."

That is the short notice amendment which I beg to move.

Mr. Speaker: It does not appear to be strictly necessary.

Mr. Naziruddin Ahmad: That is a matter for the House to consider.

Mr. Speaker: I may remind the honourable member that, that expression also occurs in the preamble part of the clause. There also the same amendment will be necessary. Is he then particular that I should put it to the House?

Mr. Naziruddin Ahmad: I would ask the Honourable Minister to consider it.

The Honourable Dr. B. R. Ambedkar: I do not think it is necessary.

Mr. Naziruddin Ahmad: Then I do not press it.

Mr. Speaker: There are a couple of points on which I believe some clarification is necessary. Perhaps the position is not clear to me.

In part (i) sub-clause (1) of the amendment it is provided that ".....where there are more than one, each of the defendants, actually and voluntarily resides.....", then only he can file a suit. In the main clause it is enough if any one of the defendants resides in India.

From the opening part of sub-clause (1) the idea seems to be that—

“.....a displaced person may institute a suit in a court within whose jurisdiction he or the defendant or any of the defendants, where there are more than one, actually and voluntarily resides, or carries on business, or personally works for gain.....”.

But in part (i) thereof in the proposed amendment, the word used is “each”.

The Honourable Dr. B. E. Ambedkar: In the revised list, it is “any”.

Mr. Speaker: So I put it as “any” and not as “each”.

Shri M. Ananthasayanam Ayyangar: It has been taken verbatim from Section 20 of the Code of Civil Procedure. The word “each” is all right.

Mr. Speaker: Perhaps the honourable member did not follow my difficulty. But that has now been cleared by the Law Minister. When I put the amendment, I shall use the word “any” instead of “each”.

I now go to sub-clause (2) of the proposed clause 9 which says:

“.....unless such suit has been finally disposed of.....”

What happens if a suit is decided before this Act comes into force and the period of limitation for appeal has not expired? The person against whom a case is decided may or may not have filed an appeal.

The Honourable Dr. B. E. Ambedkar: This does include an appeal.

Mr. Speaker: Then what is the meaning of the words “finally disposed of”?

The Honourable Dr. B. E. Ambedkar: It has resulted in a decree, or order, or dismissal.

Mr. Speaker: My point was that a final disposal of a suit may be in an appeal, and therefore the word “finally” created a difficulty in my mind.

The Honourable Dr. B. E. Ambedkar: Well, if that is so, Government has no objection if “suit” includes “appeal”.

Mr. Speaker: But the “suit” would include an “appeal”, and it is desirable that even at the appeal stage, it should not be contended that the suit was not properly instituted. Will this section cover that contingency?

The difficulty I was feeling was that a suit is disposed of by the first Court and an appeal is not filed actually before the date this Act begins: then what will be the position if the person wants to file an appeal within the period of limitation but after the Act comes into force.

Shri M. Ananthasayanam Ayyangar: A suit does not include an appeal under the Civil Procedure Code. Execution no doubt has been held to be a continuity. So far as a suit is concerned it must be filed within the period under the Limitation Act. Of course, there is a provision to say that ‘I was prevented by a certain cause’. Now, so far as “each” is concerned, does your copy say “each” or “any”?

Mr. Speaker: That has been disposed of. I am referring to sub-clause (2).

Shri M. Ananthasayanam Ayyangar: I am coming back to part (i) with your permission, because you are trying to change “each” to “any”. “each” is used in the Civil Procedure Code as at present, and “each of the defendants” is the expression used in respect of which no controversy has arisen. There is no need to correct “each” to “any”. My submission is that it is unnecessary.

The Honourable Dr. B. E. Ambedkar: I think Mr. Ayyangar has forgotten that there is a proviso which says that a suit may be filed with the permission of the Court. We are dispensing with the permission of the Court. That is why the word "any" is necessary.

Mr. Speaker: Let us be clear. I could not understand the implication of the word "finally", unless the implication was that an appeal is a continuation of a suit.

The Honourable Dr. B. E. Ambedkar: Provided an appeal is filed! A suit, ordinarily, according to the definition in the Civil Procedure Code, does not include an appeal. Therefore once a suit is dismissed or decreed, it is a final disposal of the suit.

Mr. Speaker: Even when an appeal is filed! It would perhaps be that an appeal would be barred; if the appeal was not filed before this Act came into force. That was my difficulty, as the words in the clause are "unless such suit has been finally disposed of before the commencement of this Act..." There is the right of appeal. It has not been actually exercised by the filing of the appeal.

The Honourable Dr. B. E. Ambedkar: But the period is there!

Mr. Speaker: What happens to such a suit? Is my difficulty clear to the Honourable Minister?

Shri K. Santhanam: The appeal will be barred as it is!

Mr. Speaker: That is how it appears to me. In other cases it will not be. The appeal will include the suit in this particular section.

The Honourable Dr. B. E. Ambedkar: I think, Sir, the difficulty that you have pointed out can be resolved by adding an explanation to sub-clause (2) in some such words as the following: "A suit shall not be deemed to have been finally disposed of if the period prescribed for an appeal from any decision on the suit has not expired before the commencement of this Act."

Mr. Speaker: I was just thinking in a different way. If the words "unless such suit has been finally disposed of before the commencement of this Act" are deleted, the effect will be the same without having an explanation. The matter would then refer to the original institution of suits. The right of appeal would be there. Whatever it may be, if the Honourable Minister thinks that the position is clear, we might proceed or we might postpone the consideration of the Bill to another day.

Dr. Bakhshi Tek Chand (East Punjab: General): I think the suggestion made from the Chair is the proper solution and should be adopted. There may be three possible cases, first, if the suit has been decided by the first court and the period of appeal has expired and no appeal could be filed, the suit has been finally disposed of and there is an end of the matter. Then there is the second class of cases in which a suit has been decided by the trial court and an appeal has been filed within the period of limitation. The appeal is pending and the matter is again *sub judice*. Therefore we cannot say that the suit has been finally disposed of. The third and intermediate class of cases is where the suit has been disposed of by the trial court and the period of limitation has not yet expired on the date on which the Act comes into force. What is to be done in such a case? In that case if we allow these words to remain a great deal of difficulty would arise and various interpretations may be put by different courts. If you omit these words then that class of cases would be saved. My submission is that the words "unless such suit has been finally disposed of before the commencement of this Act" should be deleted.

Mr. Speaker: The matter requires some consideration and if the honourable member is agreeable I am prepared to put off this matter till day after tomorrow.

The Honourable Dr. B. R. Ambedkar: The suggestion which you, Sir, have been pleased to make is good enough. After all there is no question of principle involved. We are interested to see that these persons get the utmost benefit out of this. That is the point. That purpose would be served by dropping the words as suggested by you.

Shri M. Ananthasayanam Ayyangar: What will happen if the words "unless such suit has been finally disposed of before the commencement of this Act" are removed? There are two classes of cases, one pending and the other disposed of. With respect of the disposed of suits would they not like to take advantage of this provision? If on account of a suit having been filed later without the help of this Act the suit is dismissed, could the person not request that the suit must be restored or reviewed? If the suit is pending the man can take advantage of this provision. You are giving retrospective effect. A suit has been disposed of in the sense that it ended in an appeal or dismissal. If it is a case of dismissal would it be possible for a person to come up and say let me get back to the original position?

Mr. Nasiruddin Ahmad: Otherwise there will be no relief.

Shri M. Ananthasayanam Ayyangar: A judge may on account of excess of work dispose of a case until the Act is passed, in which case the person concerned is saved. There may be the case of another judge who disposed of a suit quickly by dismissing it, in which case the man goes to the wall. They are all displaced persons on account of various calamities. Why do you create a difference between one person and another. Give relief to all those persons who have suffered. There will be no harm if this matter is postponed till day after tomorrow: meanwhile we can come to an agreement.

Dr. Bakhshi Tek Chand: I do not think there will be many cases of the type which Mr. Ayyangar has in view. Most of the suits are still pending and if there are any suits which have been disposed of during the period they will fall under one or other of the categories which I mentioned. All those cases will be met. What actually happened in Pakistan and India in the partition was that up till February all suits against persons who were displaced were under departmental orders issued by the High Courts of Lahore and East Punjab kept pending until the end of February 1948. After February if any suit has been dismissed in most cases an appeal has been filed. The best thing would be to omit these words. I do not think any hardship will actually arise in any case. It is a measure which applies to a limited class of cases.

Mr. Speaker: It is now purely in the hands of the Honourable the Law Minister.

The Honourable Dr. B. R. Ambedkar: I agree with Dr. Bakhshi Tek Chand that it will not cause any difficulty.

Mr. Nasiruddin Ahmad: The dropping of this will leave out a class of persons who will be equally aggrieved. After the period of limitation and without the advantage of any extension of limitation his suit is dismissed. He is entitled equally to our sympathy. The man who takes care to come quickly to court, loses whereas the man who is tardy enough to wait till this Act is passed, gets our protection. If we proceed on any principle, the man who has instituted a suit earlier, and whose suit has been dismissed on the ground of limitation, is also equally entitled to our sympathy. If the suit is dismissed he should get all the benefits that we are extending to the man whose suit is still pending. That class of persons should not be excluded but should rather be included. The draft should be changed suitably. The exclusion of the words suggested would save a certain class of persons, but the other class of persons mentioned by my honourable friend Mr. Ananthasayanam Ayyangar should also be included in the benefit and there is no reason why the question of hardship should not in their case be taken into consideration.

[Mr. Naziruddin Ahmad]

After all, these persons are displaced persons. They are helpless and the law tries to help them. The fact that it is on account of miscalculation of timing that he has lost his case should not make him lose our sympathy.

Mr. Speaker: Shall we postpone the matter?

The Honourable Dr. B. E. Ambedkar: I do not mind.

Mr. Speaker: Though the arguments of the two honourable members who just spoke do not appeal to me, there is no harm in postponing further discussion on this. Let us postpone consideration of the whole Bill rather than this particular clause. This matter will stand adjourned till day after tomorrow as the House is not meeting tomorrow. In the meanwhile, this aspect may be considered and proper amendments may be moved, if at all they are deemed to be necessary.

INDIAN REGISTRATION (AMENDMENT) BILL

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

"That the Bill further to amend the Indian Registration Act, 1908, be taken into consideration."

Sir, this Bill makes two changes in the Indian Registration Act. One is to amend Section 88 and the other is to amend Section 17. Section 88 exempts certain government officials from appearing before the Registrar of Documents to admit the execution of their signatures on the documents. The section as it stands, specifies certain officers by their designations. It does not exempt other officers, nor does it give general powers to Government to notify which officers may be exempted. It is felt that besides giving general exemption to certain officers they should also be given a general power to exempt such officers as they think fit. This amendment is primarily brought on the ground that the attendance of officers before the Registrar for the purpose of admitting their signature causes certain amount of inconvenience to the officers which inconvenience could be easily avoided. That is the purpose of section 88.

The amendment to Section 17 refers to a different matter altogether. As the honourable House will remember, Section 17 of the Registration Act specifies certain documents which are compulsorily registrable. They must be registered. Otherwise they have no effect, nor can they be admitted in evidence in a court of law. In making certain documents compulsorily registrable, sub-section (2) of section 17 exempts certain documents from the operation of section 17. A vesting order passed by the Government under the Charitable Endowments Act of 1890 is not included in the exempted documents which are specified in sub-section (2) of section 17. It is felt that this order, vesting the property belonging to a charitable endowment, on the application of the trustees administering that trust, in the treasurer appointed under the Charitable Endowments Act ought really to be exempted, because strictly speaking it is not a document which creates any right in property or anything of the kind. Therefore such a document ought to be exempted.

The question whether an order passed by the Provincial Government under the Charitable Endowments Act, 1890, vesting the property in the treasurer is a document which falls within the purview of sub-clause (b) of clause (1) of section 17, has been a matter of controversy. There has been a difference of opinion. This difference of opinion arose as early as 1912 in a case in Bombay. As a measure of caution there, this document was treated as one which was compulsorily registrable. All the same, many people have felt that this document should not be treated as a document which is compulsorily registrable. It is to give effect to this opinion that this Bill seeks to amend Section 17 and the amendment specifically mentions the vesting order passed by a Provincial

Government under the Charitable Endowments Act as one of the documents which are exempted under sub-section (2) of section 17.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Registration Act, 1908, be taken into consideration."

The motion was adopted.

Mr. Speaker: We shall now take the Bill clause by clause.

The question is:

"That clauses 2 to 4 stand part of the Bill."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Mr. Speaker: With regard to clause 5 I find a number of amendments by Mr. Naziruddin Ahmad. I take it that the attention of the Draftsman is to be invited. Is there any substantial one which he wishes to move?

Mr. Naziruddin Ahmad (West Bengal: Muslim): Yes. With regard to list No. 1, the attention of the draftsman is to be invited to amendment No. 2. With regard to amendments 1 to 3 in list No. 2 they relate to the same thing in different places. I shall move the other three amendments. Sir, I beg to move:

(i) "That in clause 5 of the Bill, in part (a) of sub-section (1) of the proposed section 88 of the Indian Registration Act, 1908, for the word 'Government', the words 'the Provincial Government' be substituted;"

(ii) "That in clause 5 of the Bill, in sub-section (2) of the proposed section 88 of the Indian Registration Act, 1908, for the word 'Government', the words 'the Provincial Government' be substituted;" and

(iii) That in clause 5 of the Bill, in sub-section (3) of the proposed section 88 of the Indian Registration Act, 1908, for the word 'Government', wherever it occurs, the words 'the Provincial Government' be substituted."

Sir, the clause deals with Provincial Governments and I think that it should be made absolutely clear. There is one passage in this clause where the Provincial Government is mentioned, namely Section 88, sub-section (1), part (d), at the end—"in that behalf by the Provincial Government". The words "Provincial Government" have been used in this context. So I believe that the officers of the Provincial Governments alone are considered. If we do not use the words "Provincial Government" and if we leave it as any officer of the Government, the result would be that officers of all Governments, Provincial and Central, would be meant whereas the Central Government is not at all contemplated in the amendment.

Shri M. Ananthasayanam Ayyangar (Madras: General): The Central Government is not a Government—is it?

Mr. Naziruddin Ahmad: The Central Government is certainly a Government. But here in the context we are concerned with the Provincial Governments only. That is absolutely clear from the purpose of the amendment. In fact, the Punjab Government made a representation that their officers should be exempt from appearance at the registration office. If the Central Government is also meant, then of course the word "Provincial" would be unnecessary. But there is the difficulty that in sub-section (1) at the end of part (d), the words "Provincial Government" have been used. This indicates that we are concerned only with the Provincial Government. If the Central Government is also to be included, then the words "Provincial Government" which are already in the text should be deleted, or if these words are to be retained, suitable consequential amendments should also be made in the four places suggested in my amendments.

The Honourable Dr. B. R. Ambedkar: The word "Government" includes both Central and Provincial Governments. It is the intention that it should include both.

Mr. Naziruddin Ahmad: Then, Sir, may I ask one question? There is the expression "Provincial Government". Should that be deleted?

Mr. Speaker: No. The honourable member does not seem to have followed the scheme of the legislation. The Provincial Governments are being given definite power to exempt persons they like, by a notification to that effect in the Official Gazette. That seems to be the position where the words "Provincial Government" are used.

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

Mr. Speaker: So, I think the honourable member does not wish to press his amendments?

Mr. Naziruddin Ahmad: All right, Sir. I do not wish to press my amendments.

Mr. Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

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

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

INDIAN MATRIMONIAL CAUSES (WAR MARRIAGES) BILL

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

"That the Bill to confer upon Courts temporary jurisdiction in certain matrimonial causes, be taken into consideration."

Sir, this is a very small measure. It deals with the cases of Indian women professing the Christian religion who happened to marry foreigners who came to India during the period of the war, and whose husbands have since departed or left India and have practically no intention of returning to this country. This conduct on the part of the husbands is obviously tantamount to what is called desertion which entitles the Indian women who married them to divorce. Unfortunately, however, owing to the provisions contained in the Indian Divorce Act, it is not possible for our Courts in India to grant them divorce although the cause of action is present. The reason is that according to the provisions contained in the Indian Divorce Act, it is necessary that both parties to the marriage must have been domiciled in India at the time when the petition for divorce is filed. Obviously, that condition cannot be fulfilled in these cases. Consequently this Bill seeks to change that rule and to provide that notwithstanding the fact that the husband is not domiciled in India, the woman who has married him shall be entitled to obtain a decree of divorce in the Indian Courts. This is limited for a short period. I may say that

this Bill is a mere replica of an Act passed in Great Britain for similar purposes, and I do not think it raises any controversial question at all.

Shri M. Ananthasayanam Ayyangar (Madras: General): Under definitions, in clause 2 (c) the period is limited.

The Honourable Dr. B. B. Ambedkar: Yes. . And the marriage must have taken place within that period.

Mr. Speaker: The question is:

"That the Bill to confer upon Courts temporary jurisdiction in certain matrimonial causes, be taken into consideration."

The motion was adopted.

Shri K. Santhanam (Madras: General): Sir, even today suppose a Christian lady marries somebody who comes here as a tourist and goes away, what is the remedy? She will be in the same position as ladies who married during the war. So, I want to know why special legislation is necessary.

Shri K. Hanumanthaya (Mysore State): I want to know another point. Sir, how many such ladies are there who have been put to this difficulty?

Mr. Speaker: I think that those questions do not really arise out of this Bill at all. There may be one or there may be a million.

I will take the Bill clause by clause. I find our friend Mr. Naziruddin Ahmad has given notice of some amendments. .

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I am too late. Or rather, the Bill has been taken up too early rather unexpectedly.

Mr. Speaker: No, it is there on the agenda, and in the circumstances I shall be going against what I have declared very often here that unless the House is substantially agreed to, I would not permit an amendment not received in time. So there is no question of any amendments being moved now.

Mr. Naziruddin Ahmad: Sir, I shall make one or two suggestions for the acceptance of the House.

Mr. Speaker: I shall put the clauses to the House and then the honourable member may make suggestions without referring to his amendments. We will take up clauses 2 to 7.

Mr. Naziruddin Ahmad: Sir, I wish to draw the attention of the House to Clause 4. In line 8 of Clause 4, there is the passage, "any proceedings for divorce or for nullity of marriage". Should it not be, "for 'the' nullity of marriage"? I am not very clear about it myself; I ask the House and the Honourable Minister to consider it. The same passage appears once again in the Proviso to Clause 4.

In telegraphic correspondence or in friendly correspondence such sort of expression is very much to be tolerated but in a legislative enactment I think the word 'the' is called for. But it is a matter for the House to consider.

Shri M. Ananthasayanam Ayyangar: I have got one or two doubts. You will see that in Clause 2(b), "'marriage' includes a purported marriage which was void *ab initio*, and 'husband' and 'wife' shall be construed accordingly". If there is no marriage, why should there be a divorce? They are not husband and wife in law, though if an American came here and married during this period some girl who unwittingly entered into a marriage alliance with him and became his wife, because she is a domicile and our own national, we must relieve her. But there is no question of his coming here, and even if she were to marry without a divorce, he is not going to charge her with defamation. No doubt, to give her a legal divorce this legislation is quite necessary. But why should we help, and what is the difficulty with respect to a case where really there is no marriage, there is no husband and wife. They must

[Shri M. Ananthasayanam Ayyangar]

have just gone to a cinema and talked leisurely. So there is really no marriage. Further, I do not find a similar definition in the Divorce Act. This is a new definition. I do not know what class of people the Honourable Minister intends to relieve by this definition of marriage.

Then, as regards clause 6, is it reciprocal? There may be many persons from England who might have likewise taken away some girls unwittingly and what about their difficulty? Therefore, are we having a similar measure in England? I would like a reciprocal measure, provided they are showing similar concessions to our people there. Otherwise, let us not be too generous in these matters.

These are the two points on which I would like to have some elucidation.

The Honourable Dr. B. R. Ambedkar: With regard to the second point, namely, whether the provision contained in clause 6 of the Bill is reciprocal to anything done by the English law, my answer is in the affirmative. In fact, this Bill merely follows the recent Act passed by the British Parliament conferring similar powers. They have also given recognition to divorce and nullities that may be decreed by our courts of law.

With regard to the question of the definition of marriage in clause 2(b), the point is this, that where a marriage is void or voidable, it cannot be treated to have been finally dissolved unless there is a decree of the court. Decree of nullity means that the marriage was really void but the court must pronounce upon it as being void, the reason being that marriage creates status and a status cannot be dissolved automatically by parties voluntarily and of their own act. Divorce means that the marriage is valid, but that certain circumstances have supervened, which entitles one party to obtain release from the marital bond by which it was bound to the other party. Therefore, it is for that reason that we have included this: "purported marriage which was void....." For legal purposes it is a marriage unless it has been dissolved by a court. That is the difference between a decree of nullity and a decree of divorce.

Shri M. Ananthasayanam Ayyangar: How does it not, then, find a place in the Indian Divorce Act, which is the Main Act and this is supposed to be supplementary to it. This definition of marriage is not there.

Mr. Speaker: One can imagine the object. I do not know what the Honourable Minister has in view, but I may just put it to the honourable member: There is a "purported" marriage. The husband is somewhere else. No other person will be willing to marry that woman unless she gets a decree from the court. She has to go to court even in the case of a "purported" marriage and I believe such cases do require consideration. That is what I imagine is the object. I do not know.

The Honourable Dr. B. R. Ambedkar: *injected assent.*

Mr. Speaker: So, the question is:

"That clauses 2 to 7 stand part of the Bill."

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

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

"That the Bill be passed."

Mr. Speaker: Motion moved:

“That the Bill be passed.”

Shri M. Ananthasayanam Ayyangar: Sir, I only want to say one word. I am only submitting to my honourable lady member friends here—they have always been under the impression that I am one of the conservatives in India—I want to tell them that I wholeheartedly support this measure which is intended to help such women, who have unwittingly entered into marriage alliances.

Mr. Speaker: The question is:

“That the Bill be passed.”

The motion was adopted.

CENSUS BILL

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

“That the Bill to provide for certain matters in connection with the taking of census, be taken into consideration.”

As the House is aware, census has, up to now, been a periodical operation and at the end of every ten years a Census Act is passed to enable census to be taken in a particular year. This is an attempt to put a small piece of legislation on the Statute Book as a permanent measure.

There was a time when census was apt to be regarded as a mere formality yielding certain statistics—not very accurately prepared, obtained indifferently but tabulated very carefully. Now, this kind of census has caused immense injury on occasions when very important constitutional changes take place. As the House is aware, in the last constitutional changes we had to rely upon this census which was very imperfectly prepared. Even portions of India were partitioned, relying on the census which was very inaccurate. Experience has shown that occasions arise very often when we have to rely upon census figures, which, if not accurately prepared, lead to a result other than what is desired. As the world is progressing towards a scientific appreciation of an important operation of this nature, we think it is necessary to have a proper census prepared and for that purpose we should not rely upon periodical enumeration or operation of this nature, but we should have some kind of permanent process of enumeration and checks and counter-checks introduced, by which a correct census—a more or less accurate census—may be prepared and kept ready. For this purpose this is an attempt to put in a permanent piece of legislation on the Statute Book.

There is also another aspect of the census, which is very important. It is obvious that the census operation must largely centre round the house list. It is proposed to prepare the house lists in advance of the main census operation. The provinces have agreed to cooperate in this business. It is intended to keep these house lists up to date, so that except for the floating population there will be an estimate of population annually available to us. At present we base such annual estimates on the figures of the vital statistics which on account of their imperfections are not a safe guide. For the maintenance of these house lists alone, it would be necessary to have permanent legislation and I have explained to the House why we consider this permanent legislation necessary.

Now, in all essentials this legislation follows the previous pattern. As stated in the Statement of Objects and Reasons, the only material change is

[Sardar Vallabhbhai Patel]

in the enhancement of the penalty or fine, in the making of an abetment of census offence punishable and in the provisions relating to the tampering of records and making it compulsory for persons nominated as Census Officers to serve in the capacity directed. As regards the first point, experience indicates that the penalty hitherto prescribed has not been sufficiently deterrent.

As regards the first point the Superintendents of Census operations are unanimous that the punishment is not as deterrent as it ought be. We also hope that such enhanced punishment would check sectional and communal rivalries which have come to light in the last few census operations. That rivalry was due to political considerations, but it may be that occasions may arise in future where inflated figures may be given by one group or the other and for that a sufficient check is found to be necessary.

The second point, namely the provisions relating to abetment needs no elaborate justification. As regards the third point, hitherto offences have been confined to the enumeration side. We propose to extend it to the other sides of the census operation also. We also want to make it obligatory on a person nominated as Census Officer to serve in that capacity. Experience has indicated that this provision is also necessary for the efficiency and orderly progress of the census operation.

Sir, I hope I have given sufficient indication of the justification of this measure and I now move.

Mr. Speaker: Motion moved:

"That the Bill to provide for certain matters in connection with the taking of census be taken into consideration."

Shri M. Ananthasayanam Ayyangar (Madras: General): Mr. Speaker, Sir, I want the scope of this Bill to be extended to States also. It must be an All India census. By special instrument of accession they can accede and give the power to the Central Government to take the census. That will steer clear of some of the difficulties. Though some communities are not able to multiply as quickly as other communities, the census is taken advantage of for bringing into existence a large number of children. That is unfortunately what happened in Bengal and other places some time ago. Very great care is necessary in this respect. All loop-holes must be avoided so that no minority community may get a larger number of seats. Of course the majority community is already there in divided India. All those who try to increase their number by merely census operations should be punished.

Hitherto census has been taken every ten years and an Act is passed. I welcome this measure, in that it is a permanent measure in the Statute Book instead of being for small periods of time or for smaller areas of operation. That is of vital importance. This measure was suggested long ago by some of the Census Officers who were in charge of the census operation. I am glad, Sir, that the Honourable Minister has chosen to bring forward this wholesome measure in this session. During the time of ancient kings census of cattle in different villages in *Jamabhandi* time and all similar census were being taken and collected. Provision may also be made on a rough and ready basis and directions may be given to have census during the interval and a final census once in ten years as has taken place hitherto. I welcome this measure; there are no controversial things here and the language has been carefully drafted except here and there, which may require some modifications. I support the motion for the consideration of the House.

[At this state Mr. Speaker vacated the Chair, which was then occupied by Pandit Thakur Das Bhargava one of the Panel of Chairmen.]

Mr. Chairman: The question is:

"That the Bill to provide for certain matters in connection with the taking of census, be taken into consideration."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

"That after clause 1 of the Bill, the following new clause be inserted:

'1A. *Interpretation.*—In this Act, all references to the Provinces of India shall be construed as including reference to the Acceding States to which this Act for the time being extends, and in relation to any such Acceding State, all references to the Provincial Government shall be construed as references to the Government of that Acceding State.'

Shri K. Santhanam (Madras: General): Sir, I think the wording is a little defective; there should be a positive provision that it applies to the Acceding States.

Shri M. Ananthasayanam Ayyangar: That will come later.

Mr. Chairman: The question is:

"That after clause 1 of the Bill, the following new clause be inserted:

'1A. *Interpretation.*—In this Act, all references to the Provinces of India shall be construed as including reference to the Acceding States to which this Act for the time being extends, and in relation to any such Acceding State, all references to the Provincial Government shall be construed as references to the Government of that Acceding State.'

The motion was adopted.

New Clause 1A was added to the Bill.

Mr. Nasiruddin Ahmad (West Bengal: Muslim): There is only one amendment in clause 2; I do not wish to move it, but the draftsman's attention should be drawn.

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

"That in clause 2 of the Bill, for the words 'in all or any of the Provinces or in any parts thereof', the following be substituted:

'in the whole or any part of the territories to which this Act extends'."

Mr. Chairman: The question is:

"That in clause 2 of the Bill, for the words 'in all or any of the Provinces or in any parts thereof', the following be substituted:

'in the whole or any part of the territories to which this Act extends'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Shri M. Thirumala Rao (Madras: General): In giving the main purpose for introducing this Bill, the Honourable Minister has given us the very defective nature of the census operations that are being carried out in India and how we have recently suffered on account of the defect in our census operations. Sir, we know that the Department has retained the services of Mr. M. W. M. Yeatts, I.C.S., who was supposed to be an expert in census operations for a long time. What I want, Sir, is that we should have a permanent Department of statisticians to see that accurate figures of the population, growth and decline is maintained in the records of the Government of India.

[Shri M. Thirumala Rao]

We must see that if Mr. Yeatts is an expert which he is claimed to be, he must train certain officers and statisticians and people who are well versed in this work. We know how in 1941 public bodies boycotted the census and for what cause, is well known. The Census should not be a periodical operation only; but it should be a regular operation from year to year, noting down how the trend of population is getting on in this country, with regard to its economic and public health and other activities. This is intimately connected with the development of the nation and what progress the country is making under the various progressive schemes that a national Government is expected to undertake. I therefore suggest that a department of statistics for the census should be maintained, with an expert at the head of the department, and with an army of officers that would be able effectively to deal with the large population of our country. I have to make this suggestion in connection with this clause.

The Honourable Sardar Vallabhbhai Patel: Sir, the post of the Census Commissioner has been specially created for this purpose. Mr. Yeatts the present Census Commissioner is an expert; he was going; we have kept him here. In all important posts requiring special knowledge or expert knowledge, we make it a condition that an officer, who is not an Indian, should, during the period of his stay, train an Indian officer so as to enable him to take his place when he goes. All these arrangements have been made.

Mr. Chairman: The question is:

"That clauses 3 to 5 stand part of the Bill."

The motion was adopted.

Clauses 3 to 5 were added to the Bill.

Shri K. Santhanam: Sir, I move:

"That after part (b) of clause 6 of the Bill, the following new part be inserted:

'(c) all officers and members of staff of any factory, firm or establishment'."

Sir, the purpose of my amendment is obvious. It seeks to extend the scope of the Bill to people who could be enrolled for the purpose of the census operations.

• **The Honourable Sardar Vallabhbhai Patel:** I have no objection to add this.

Mr. Chairman: The question is: .

"That after part (b) of clause 6 of the Bill, the following new part be inserted:

'(c) all officers and members of staff of any factory, firm or establishment'."

The motion was adopted.

Shri M. Ananthasayanam Ayyangar: Sir, I believe some consequential changes may be necessary in the later portion of the clause. In this case, the words, in respect of persons in the factory, firm or establishment will have to be added. These persons are called upon to give such assistance as shall be specified in the order towards the taking of census of the persons who are at the time on the lands of such owners, occupiers, tenure-holders and assignees, or in such factories or establishments. Possibly, this would follow as a consequence.

Mr. Chairman: Some consequential changes seem to be necessary.

Shri K. Santhanam: Here, I am referring to the members. These people will be summoned. In remote villages, the owners and occupiers of lands, tenure-holders and others are summoned. Here, as individuals, these people will be called upon.

Shri M. Ananthasayanam Ayyangar: For what purpose? The manager is asked to give information about those persons who are employed in the factory. As it stands, the clause runs:

"(a) all owners and occupiers of land, tenure-holders, and farmers and assignees, etc."

The land owner is asked about the persons who are on the lands of the land owner. So far as the District Boards and Municipal Boards are concerned, the duty is imposed on them to give information in regard to persons in their employ. Now, we add a new category, factory, firm or establishment. There is no corresponding provision for that in the later operative portion. Both the categories of land owners and members of District and Municipal boards are repeated here. The new category does not find a corresponding place in the last portion, which is the operative portion.

Shri K. Santhanam: How is the second category repeated? It is only to give such assistance.

Shri M. Ananthasayanam Ayyangar: For the areas for which local authorities are established. Therefore, both the clauses are once again referred to in the operative portion. You have added a third category in the earlier portion and omitted to bring them again in the latter portion. If you can kindly pass it over, I shall suggest a suitable amendment.

Mr. Chairman: Consistently with what you have added, we should have something like: "in the premises of such factory, firm or establishment."

Shri K. Santhanam: The word "occupiers" will also cover factories and establishments.

Shri M. Ananthasayanam Ayyangar: That would mean census of all persons on the lands as occupiers. You must add the word "factory or other establishment."

Mr. Chairman: I would suggest that the words "in the premises of such factory, firm or establishment" may be added after the word "assignees".

Shri M. Ananthasayanam Ayyangar: Shall I move it formally, Sir. I beg to move; Sir, with your leave:

"That in clause 6 of the Bill after the word 'assignees' occurring in line twelve the words 'or in the premises of factories, firms and other establishments' be inserted."

Mr. Chairman: The question is:

"That in clause 6 of the Bill after the word 'assignees' occurring in line twelve the words 'or in the premises of factories, firms and other establishments' be inserted."

The motion was adopted.

Mr. Chairman: The question is

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Shri M. Tirumala Rao: Sir, I have a few remarks with regard to this clause. I think the proviso is not very helpful to the purpose of the Bill. The proviso reads:

"Provided that no person shall be bound to state the name of any female member of his household, and no woman shall be bound to state the name of her husband....."

I think a stage has come when we should dispense with this kind of super-stition when a woman will not be willing to utter the name of her husband or a husband will not be willing to utter the name of the wife. There is also the danger of the *purdah* system coming into this; a large number of people may be kept in *purdah* and then it may be said that they cannot be seen and identified. But the enumerator has to take down certain names of people who are inside the *purdah*. That sort of evasion or mischief has to be effectively dealt with in this Bill and there is no provision for that. This proviso will

[Shri M. Tirumala Rao]

not allow an accurate enumeration to be made and I suggest that it may be deleted.

Shri M. Ananthasayanam Ayyangar: Sir, I am sorry I have to differ from my honourable friend. I do not know if this census is another social reform measure. (*An Honourable Member:* 'It is.') No, it has come into existence for a different statistical purpose altogether. There is a custom of refusing to give the wife's or husband's name. But still there are others from whom these names can be got. I am sure the Honourable Minister with his vigilance will surely appoint a number of lady enumerators and census officers who will get into the households and before whom there will be absolutely no *purdah*. If the husband or wife refuses to utter the names, there are other people like sons or sisters and a number of people who will give these names. Let us not in a round-about manner try to do away with *purdah* but bring in a defrigo measure for that purpose if necessary.

Mr. Naziruddin Ahmad: Sir, I submit that in one sense the proviso is unnecessary. In fact women come to court and they are required to state their husband's name. The usual device is that some one mentions a name and asks the woman whether that is her husband's name and she answers in the affirmative. That is how things have been managed for a long time. But perhaps the Draftsman thinks that some overzealous officer may command a woman to give her husband's name. This is a safeguard against that; and there are penalty clauses under which if any one refuses or fails to answer questions he will be punishable under the law. So in order to prevent an unjust prosecution this proviso has been added.

Dr. B. Pattabhi Sitaramayya (Madras: General): Sir, I am afraid there is a misunderstanding. "No 'person' shall be bound to state the name of any female member of his household". The word 'person' here is supposed to mean a male person. You may sympathise with a man if he does not give the name of his wife but why should he not give his mother's name and his sister's name and his niece's name? This is meaningless and the clause must go. If you sympathise with the prevailing practice or custom, only the latter portion may remain and the former portion may be limited only to husband and wife. I remember a case which was narrated to me from East Bengal. There was some census and a man gave the names of 27 members. When the police went there and he was compelled to produce ration cards he could produce only four cards. The mistakes are there but how are you going to cover them. If you do not allow a person to mention the name of any woman in the household how are you going to get the names at all?

The Honourable Sardar Vallabhbhai Patel: Sir, this clause only provides a safeguard, as my honourable friend there stated, against a penalty which ought not to be imposed when a woman refuses to give the name of her husband or the husband refuses to give the name of the wife, as according to custom it may be forbidden. Also there are some people who would not disclose the name of the female members of the house, but other people in the family would give their names. These are people who are prevented by custom from taking the name of their son's wife. This clause provides a safeguard against penalty in such cases. But this clause is to be read with the fact that the census operators will work this with common sense and will not find any difficulty in ascertaining the names. They will ascertain the names from neighbours, if not from the house itself, but the object of this is to prevent an unduly harsh imposition of the penalty. Therefore I think the clause should be retained.

✓ **Shri Basanta Kumar Das** (West Bengal: General): Sir, I beg to move:

"That after the existing proviso to sub-clause (2) of clause 7 of the Bill, the following new proviso be added:

'Provided further that no person shall be bound to state the name of the caste to which he or she belongs'."

In Bengal during the 1941 census there was a large number of people who refrained from mentioning their castes and only mentioned their religion. I think there should not be any compulsion in this matter and no penalty should be imposed if a person does not like to mention his caste. Sir, I move.

Mr. Chairman: Amendment moved:

"That after the existing proviso to sub-clause (2) of clause 7 of the Bill, the following new proviso be added:

'Provided further that no person shall be bound to state the name of the caste to which he or she belongs'."

✶ **Dr. P. S. Deshmukh** (C. P. and Berar: General): Sir, I rise to oppose this amendment because it is thoroughly unconstitutional. We are going to have a constitution and unless we radically change it we are not going to do away with the reservation that has been given to the scheduled castes. These castes are definitely enumerated in the Schedule. If it is not possible for the Census Officer to know the caste of a particular person the population of the scheduled castes will remain unascertained and it will thus cause much harm to their interests as well as lead to confusion among the rest of the people.

Secondly, as has been now pointed out by Government, this is not the sort of thing that is going to help us very much. Though we are anxious that caste should disappear it cannot be done by rules or regulations or by such means as these. So I suggest that the amendment should be withdrawn. Nor do I agree that the caste disputes and caste distinctions were the work of the British Government: that is an incorrect, and unfounded if not a mischievous suggestion. These distinctions were deliberately created for the oppression and exploitation of the masses who were by design to be kept perpetually ignorant and disputes arose and revolts took place because of the unbearable tyranny of a small highly educated section of the people. There are incontrovertible and glaring facts and figures to show the unjust and unfair way in which these people behaved, which alone have accentuated these caste distinctions, and not the propaganda of the British Government. It should be known that in an advanced place like Poona a member of the backward community was not allowed to start a school for girls of backward communities and he was stoned when he tried to do it. We have also the instance of the Madras High Court declaring Shivani a *Sudra*. In my own province 3 per cent. of the people whose population is 5 lakhs have as many as 415 gazetted posts while the scheduled castes who number 30 lakhs have only 3. The Malis are 12 lakhs in population but have only 5 and Marathas and Kuarbis numbering 20 lakhs have 12 posts only. If such state of affairs still exists I claim Sir that it is too early to expect that people will agree to the abolition of caste only on paper. After having exploited the people in the name of caste these very people now wish to continue their exploitation in the name of no-caste. Census operations are very important and for all people they serve as an excellent index to ascertain the progress they have made from time to time. If India is to progress, the progress must be all-sided. It should be incumbent upon us to see that every section of the Indian population shares the advancement and only then we shall be able to claim that India has advanced. There is no doubt that the advancement of India is lop-sided and those at the top are exploiting the situation. That is why complaints are made against all Congress Governments in the provinces, and so long as this situation is not remedied, we are guilty of permitting things which are neither just nor fair. There is therefore no point in my friend's amendment and I hope he will withdraw it.

Shri Suresh Chandra Majumdar (West Bengal: General): Would you deny the freedom not to mention any caste to one who did not believe in the caste system?

Mr. Chairman: Order, order.

Shrimati G. Durgabai (Madras: General): Sir, I stand to support the honourable mover of this amendment. I was simply surprised to find the previous speaker supporting and encouraging this caste system. The House is aware that we are going to have a secular State. We have many a time declared and announced that we are going to build such a state, where religion, caste or creed will have no place.

The Honourable Sardar Vallabhbhai Patel: Also sex!

Shrimati G. Durgabai: Therefore it is really surprising to find that the honourable member is pleading for retaining this caste which has really created much mischief in the past, and if retained is going to create still more. Therefore I heartily support the honourable the mover of this amendment and I urge that the amendment may be accepted by the Honourable the Minister in charge of the Bill.

Shrimati Renuka Ray (West Bengal: General): Listening to my honourable friend, Dr. Deshmukh, I was simply shocked at the argument that he advanced in favour of retaining the caste system. He has given examples of how badly different people belonging to the Scheduled Castes have been treated, and yet his one thought was to perpetuate the system as long as possible. I strongly support this amendment.

I think the time has come that not only this amendment should go through, but I do not think there is any reason why anyone should mention his caste at all in the census report. We have often said, and particularly a Government, which represents the Congress, has always held that it does not believe in any of these distinctions between castes. If we now bring a column for enumerating caste into the census, then we perpetuate such differences. If there are people who are backward, certainly we shall make arrangements for them, and I think that my honourable friend, Dr. Deshmukh, knows that that can be done in other ways than by perpetuating this caste system in our census or otherwise. If anyone is backward, whatever be his caste or community, it is for us to see to it that he gets the requisite education and training so that he can be a citizen on an equal basis with all others. So there is no reason to retain this caste distinction in the census and I hope the Honourable the Home Minister will at least accept this amendment, which is in itself but a half measure.

Sardar Hukam Singh (East Punjab: Sikh): I also rise to support this amendment and I make special reference to the Sikh community. They believe in no caste. As soon as a Sikh is baptized, he loses any caste that he may have had previous to that. If you stick to the present law as proposed to be passed, there will be a very large number of Sikhs who will refuse to give their caste and then you will have prosecutions in large numbers. So I appeal to the House to adopt this amendment.

Shri Mahavir Tyagi (U. P.: General): I rise to support this amendment. In fact it is too mild. It only says that the State will not force a person to mention his caste, which means that the State does not want the population to be caste conscious as the British made us so far. I do not say that this caste system was initially started by the British. It existed. But the mischief the British Government did was that they made us caste conscious every time.

Whenever a man had to be identified, caste was an essential part of the identification, as if we could not be located or distinguished without caste. In every other country there is no caste system and there people are recognised by giving their names, their father's name, their profession and other such particulars. Here we have been given to understand that caste forms the first part of our identity. In fact the amendment should have been that the caste column from the census registers should have been taken out altogether. That would have been a better thing. Caste does not help us in any way in a census. It is really the will of this House that caste must go for ever but this amendment is a very mild amendment. Suppose there is an individual with scruples like myself or others who do not want to give out their castes. Well, according to this Bill one will be forced to say that he belongs to such and such a caste. So, it is only that pressure that the amendment has attempted to lift. Therefore, I submit that this amendment is very innocent. In fact it should have gone further. I support this amendment and wish that the whole House—as I know the whole House is of this view—will support it and pass it.

One word more, if you do not mind Sir!

My friend raised one objection, which was to some extent relevant and also it had some weight behind it, namely, that the Scheduled Caste people would especially suffer. Well, a solution can be found out for them. They can mention themselves as belonging to the Scheduled Castes. Let them not go into greater details of castes, sub-castes and deputy sub-castes! We can do away with that difficulty by making a column whether one belongs to a Scheduled Caste or otherwise.

Dr. P. S. Deshmukh: May I answer that point?

Mr. Chairman: There is no right of answer.

Shri Satis Chandra Samanta (West Bengal: General): I wholeheartedly support the amendment. My friend, Dr. Deshmukh has opposed it but I think at heart he supports it. During the last session he supported inter-caste marriage and he gave as an example that he himself had married a lady who did not belong to his caste. He at heart supports the amendment. But the difficulty he is facing is that if every one writes Hindu what will be the fate of the scheduled castes. The amendment which has been moved has given an opportunity for this also. The scheduled caste people may write that they are scheduled caste Hindus and other Hindus who do not belong to any caste system they might write simply Hindus. Then the opposition of my honourable friend will be resolved. Sir, I wholeheartedly support the amendment.

Shri L. Krishnaswami Bharathi (Madras: General): Sir, I rise to support the amendment. The amendment only seeks to discourage the perpetuation of the caste system. If somebody refuses to mention his caste according to the present Bill he is liable to be punished. All that the amendment seeks to do is this: People who do not believe in the perpetuation of the caste system should be permitted to say that they have no caste. Incidentally I might mention that Mahatma Gandhi wrote two articles years ago entitled, "Caste must go" and his dream was that there must be a 'casteless and classless society'. He expressed his dream in two inimitable words—'casteless and classless'. All that the amendment seeks to do is to perpetuate that idea that we shall not be caste-conscious so that there may be the ultimate realisation of the object of Mahatma Gandhi, 'a casteless and classless society'. Therefore let us not be obliged to say to which caste we belonged. As a matter of interest I might mention that those people who do not want to give their caste in South India have started a great movement. More than 35,000 people in South India have signed that they shall not mention their caste. I can say that they are prepared even to face all the penalties for refusing to mention their caste. It is a great movement. Caste-consciousness like communalism is another kind of poison. Everywhere we have these

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caste associations for purposes of election. There is the All-India Reddy Sangham, the All-India Nadar Sangham, etc. This is another kind of communalism. This is a simple amendment which I hope the Honourable the Home Minister will accept.

Shrimati Ammu Swaminadhan (Madras: General): Sir, I also rise to support the amendment. I would like to say that the amendment does not go far enough. I feel that there should be a rule that caste should not be mentioned anywhere in India on any paper that we sign and I hope that the time will not be long before a law is brought about that anyone who has the name of caste after his or her name should be made to remove that particular part which indicates caste. As long as we keep up these caste names and as long as we speak about caste in the House, and elsewhere the caste distinctions will remain. The only way to forget it and to have a casteless society is to forget all about caste and we can do that only if we do away with the names which indicate a person's caste. I hope the Honourable the Home Minister will think about this also and later on bring in some kind of law which will make us all use only our names and nothing to indicate which community or caste we belong to. Sir I heartily welcome the amendment moved by my honourable friend and I hope the Honourable the Home Minister will allow it to go through.

Shri Upendra Nath Barman (West Bengal: General): Mr. Chairman, I do not oppose the amendment that has been tabled but in view of the trend of the discussions and the expression of opinions I think it my duty to make a few observations regarding this census affair. Nobody would be more happy than the scheduled castes or other backward communities about this elimination of castes but for the fact that there are causes that lead them to ask for reservations, facilities for education and other facilities for the amelioration of their condition. I welcome the day when my honourable friends will take positive steps to eliminate this caste system and this blot on our society. But so long as they do not move in the right direction they should not think that by eliminating caste from the census they are doing everything. The other castes cannot take it in that light. My humble submission is that nobody should be forced to disclose his caste against his will but at the same time I would ask the Government to look into the fundamentals that have been adopted by the draft constitution. So long as there are reservations, allotment of seats and Government itself thinks it necessary that certain facilities should be given to certain communities to ameliorate their condition, this census operation must be as scientific and accurate as possible. Otherwise it would be meaningless and will have no value. With these observations I support the amendment but again ask the Government to see to it that their promises in the draft constitution are not negatived, by left hand method.

Shri H. V. Kamath (C. P. and Berar: General): Sir, I would like to say a few words.

Mr. Chairman: I think the House has had sufficient discussion on the amendment.

Shri Satya Narayan Sinha (Bihar: General): Sir, the question be put.

Mr. Chairman: I shall put it to the House.

The question is:

"That the question be put."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: Sir, I wish to say a few words with regard to this amendment. I have a good deal of sympathy for the sentiments expressed by the mover as well as those who spoke in support of

this amendment. But I am afraid that if the amendment is passed it will defeat the purpose for which the mover as well as the supporters of the amendment have taken so much pains. In the amendment they have mentioned the word "caste" and thereby given legal recognition to the existence of caste in India; therefore instead of abolishing castes they recognise that there are castes in India. What they want to do is to abolish all caste and that purpose is not served by this amendment.

The amendment is a permissive measure which says that no man shall be compelled to mention his caste. That purpose can be served by a rule or instruction that a man who refuses to give his caste may not be prosecuted or punished. As regards the wider object for which the mover has moved his amendment, although I have considerable sympathy for the sentiments expressed by the supporters of the amendment, I would suggest that no reforms of this nature can be brought about by back-door methods. Let us have a resolution on that subject and have it debated in a full House. The other day my friend Mr. Diwakar brought in a resolution more or less embodying this principle and the House accepted my suggestion that the Government will appoint a committee to consider this question and see how far we can give effect to this sentiment. In the Bill which I have introduced there is no place for caste, creed or anything of the kind. By the amendment you introduce the caste in the Bill and you thereby defeat the purpose of the amendment. Therefore I suggest that this question, if it is to be decided as you desire, should be discussed on a separate Resolution as a question of policy for the abolition of caste. If the House accepts the policy then the officer in charge of the census will not take down that point at all. It is therefore not necessary to have this amendment at all which defeats the very purpose it has in view.

Mr. Chairman: Does the honourable the mover of the amendment desire that his amendment should be put to the House?

Shri Basanta Kumar Das: May I know if anybody who does not disclose his caste will be penalised?

The Honourable Sardar Vallabhbhai Patel: If you do not want a recognition of the caste it is better to have it discussed by a separate Resolution.

Shri Basanta Kumar Das: I was asking whether anyone who does not disclose his caste will be penalised. He should not be penalised if he does not disclose it.

The Honourable Sardar Vallabhbhai Patel: This can be done by means of instructions.

Mr. Chairman: In view of the discussion does the mover of the amendment wish to press his amendment?

Shri Basanta Kumar Das: I would like to withdraw it.

Shri Mahavir Tyagi: On a point of information, will the Honourable the Deputy Prime Minister be pleased to convey to the House his intention that he would do away with the column of "Caste" in the Rules?

The Honourable Sardar Vallabhbhai Patel: If you pass a Resolution for the abolition of caste, so far as the Government are concerned they will issue the necessary instructions.

Mr. Chairman: Has the honourable member the leave of the House to withdraw his amendment?

Some Honourable Members: No.

Shri L. Krishnaswami Bharathi: On a point of order, Sir. The leave has to be unanimous. When leave is asked for withdrawing a motion, the leave has to be unanimous. When there is even one dissentient voice the motion has to be put to the House.

Mr. Chairman: If you so desire I shall put the amendment to vote.

The question is:

"That after the existing proviso to sub-clause (2) of clause 7 of the Bill, the following new proviso be added:

'Provided further that no person shall be bound to state the name of the caste to which he or she belongs'."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clauses 8 and 9 were added to the Bill.

Shri K. Santhanam: I beg to move:

"That to sub-clause (1) of clause 10 of the Bill, the following be added at the end:

'and in case of a conviction under part (b) or (c) shall also be punishable with imprisonment which may extend to six months'."

Sir, clause (b) says:

'any census-officer who intentionally puts any offensive or improper question or knowingly makes any false return or without the previous sanction of the Central Government or the Provincial Government, discloses any information which he has received by means of, or for the purposes of, a census return';

and then clause (c) says:

'any sorter, compiler or other member of the census staff who removes, secretes, damages or destroys any census document or deals with any census document in a manner likely to falsify or impair the tabulations of census results.'"

These are grave offences by officials and a prosecution is to be taken only with the previous sanction of the Provincial Government or of an authority authorised by the Provincial Government in this behalf. The punishment prescribed is not sufficient. I have increased it by adding imprisonment for six months. This is necessary in view of the grave nature of the offences.

The Honourable Sardar Vallabhbhai Patel: I have no objection to accept the amendment.

Mr. Chairman: The question is:

"That to sub-clause (1) of clause 10 of the Bill, the following be added at the end:

'and in case of a conviction under part (b) or (c) shall also be punishable with imprisonment which may extend to six months'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Mr. Nazimuddin Ahmad: I beg to move:

"That for clause 11 of the Bill, the following be substituted:

'11. No court shall take cognizance of any offence under this Act except with the previous sanction of the Provincial Government or of an authority empowered in this behalf by the Provincial Government'."

Sir, this is the usual way in which this provision is expressed in the Criminal Procedure Code and in other Acts. The original clause which is sought to be amended, says:

"No prosecution under this Act shall be instituted except with the previous sanction of the Provincial Government or of an authority authorised in this behalf by the Provincial Government."

It says that no prosecution shall be 'instituted' etc. But, suppose somebody institutes a prosecution. What will happen? The amendment says that "no Court shall take cognizance of any offence under this Act except with the previous sanction of the Provincial Government etc." So, even if there is no sanction, the Court is prevented from taking cognizance of it.

I find in another Bill which is also pending before this House the same draftsmanship has been accepted. It is to be found in the Coal Mines Provident Fund and Bonus Schemes Bill, 1948. A similar provision is to be found there, namely "No Court shall take cognizance of any offence punishable under any such scheme except on a report in writing" and so forth. This is the way in which it is expressed in the Criminal Procedure Code, in Section 195 and in other Sections. The question is just one of form. If you prevent the Court from taking cognizance of it, any complaint filed or not would be innocuous. If you say "don't file a complaint" it does not go far enough. The method of expression I have suggested is covered by very high authority.

Mr. Chairman: Amendment moved:

"That for clause 11 of the Bill, the following be substituted:

"11. No court shall take cognizance of any offence under this Act except with the previous sanction of the Provincial Government or of an authority empowered in this behalf by the Provincial Government."

The Honourable Sardar Vallabhbhai Patel: I think the expression used here in clause 11 is much wider than the restricted amendment that is proposed by my friend. He wants the expression that "no court shall take cognizance of an offence etc." because that is the expression used in the Criminal Procedure Code. I do not think the expressions used in the Criminal Procedure Code are the final word on the subject. The world is progressing and it is better to widen the scope of this clause. In the one case as soon as an application is presented, if it is not accompanied by a sanction it goes to the waste paper basket. In the other case the court takes the application but asks the applicant to bring the sanction, or proceeds with the application and disposes it of and says that it is open to bring sanction next time. But here the court rejects the application if it is not accompanied by proper sanction. There is no point in accepting this amendment.

Mr. Chairman: The question is:

"That for clause 11 of the Bill, the following be substituted:

"11. No court shall take cognizance of any offence under this Act except with the previous sanction of the Provincial Government or of an authority empowered in this behalf by the Provincial Government."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clauses 12 to 17 were added to the Bill.

The Honourable Sardar Vallabhbhai Patel: I move:

"That clause 1A be renumbered as clause 2 and clauses 2 to 17 be renumbered as clauses 3 to 18 and necessary consequential changes be made in the Bill."

Mr. Chairman: The question is:

"That clause 1A be renumbered as clause 2 and clauses 2 to 17 be renumbered as clauses 3 to 18 and necessary consequential changes be made in the Bill."

The motion was adopted.

The Honourable Sardar Vallabhbhai Patel: I move:

"That to sub-clause (2) of clause 1 of the Bill, the following be added at the end:

'and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects Census'."

Mr. Chairman: The question is:

"That to sub-clause (2) of clause 1 of the Bill, the following be added at the end:

'and also to any Acceding State for which the Central Legislature has for the time being the power to make laws as respects Census'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 1, as amended stand part of the Bill."

The motion was adopted.

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

The Honourable Sardar Vallabhbhai Patel: I move:

"That in the Preamble to the Bill, after the word 'Provinces', the words 'and Acceding States' be inserted."

Mr. Chairman: The question is:

"That in the Preamble to the Bill, after the word 'Provinces', the words 'and Acceding States' be inserted."

The motion was adopted.

Mr. Chairman: The question is:

"That the Preamble, as amended, stand part of the Bill."

The motion was adopted.

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

The Title was added to the Bill.

The Honourable Sardar Vallabhbhai Patel: Sir, I beg to move:

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

Mr. Chairman: The question is:

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

The motion was adopted.

Mr. Chairman: The House stands adjourned till 10-45 A.M. on Friday, the 20th August 1948.

The Assembly then adjourned till a Quarter to Eleven of the Clock, on Friday, the 20th August 1948.