

THE  
LEGISLATIVE ASSEMBLY DEBATES  
Official Report

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Volume III, 1947

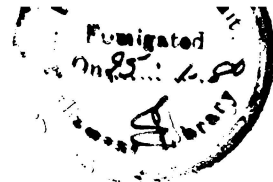
*(10th March, 1947 to 24th March, 1947)*

THIRD SESSION  
OF THE  
LEGISLATIVE ASSEMBLY  
1947



A. B.

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# LEGISLATIVE ASSEMBLY

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## *President :*

The Honourable Mr. G. V. MAVALANKAR.

## *Deputy President :*

Khan MOHAMMAD YAMIN KHAN, M.L.A.

## *Panel of Chairmen :*

Syed GHULAM BHIK NAIRANG, M.L.A.

Mr. P. J. GRIFFITHS, M.L.A.

Sardar MANGAL SINGH, M.L.A.

Shrinati AMMU SWAMINADHAN, M.L.A.

## *Secretary :*

Mr. M. N. KAUL, Barister-at-Law.

## *Assistants of the Secretary :*

Mr. A. J. M. ATKINSON.

Mr. HASAN MOHAMMAD KHAN.

Mr. N. C. NANDI.

## *Marshal :*

Captain Haji Sardar NUR AHMAD KHAN, M.C., I.O.M., I.A.

## *Committee on Petitions :*

Khan MOHAMMAD YAMIN KHAN, M.L.A. (*Chairman*).

Syed GHULAM BHIK NAIRANG, M.L.A.

Shri Sri PRAKASA, M.L.A.

Mr. C. P. LAWSON, M.L.A.

Sardar MANGAL SINGH, M.L.A.

CORRIGENDA

to

Index to Legislative Assembly Debates, Volumes I to V, 1947

(3rd February, 1947 to 12th April, 1947)

- Page 11, transfer line 9 above line 6.
- Page 13, omit line 12 from bottom and transfer line 11 from bottom after line 32 from top.
- Page 17, omit line 6 from bottom.
- Page 19, insert "Reserve Bank of India (Second Amendment) Bill. 3092, 3095-96, 3099, 3104." above line 20 from bottom.
- Page 27, insert "Publicity by certain newspapers of the recommendations of the Select Committee on — before the presentation of the report. 1538-39." over line 2 from bottom.
- Page 29, omit existing line 9 and in existing line 25 for "BISCUIT(S)—" read "BIRD(S)—".
- Page 36, omit lines 7 and 8.
- Page 42, after line 16, insert "CIVIL SUPPLIES—".
- Page 43, for line 2 under "COACH(ES)—", read "Air conditioned — on G.I.P., B.B. & C.I., M. & S.M. Railways. 2905-06."
- Page 46, above line 4 from bottom, insert "Terms of reference of Armed Forces Nationalisation Committee. 2940."
- Page 51, under "COTTON—", in line 3, for "907-07" read "906-07".
- Page 58, above line 12 from bottom, insert "Capital Outlay on Civil Aviation. 1966."
- Page 60, for existing line 5, read "Functions of the Commodities Prices Board and matters connected therewith. 1626-42."
- Page 62, under "DEMONETIZATION—", for "2399" read "2390".
- Page 65, last line, for the illegible figure read "3140".
- Page 78, under "FORCES—" after line 3, insert "See also 'Army(ies)'".
- Page 80, in line 3, for "Allied" read "Armed".
- Page 84,—(i) omit line 2;  
(ii) above line 32 from bottom insert "Consideration of Clauses. 510, 528, 945."; and  
(iii) omit line 30 from bottom.
- Page 86, under "GOVERNMENT SERVANTS—" after line 4, insert "See also 'Employee(s)'" and omit line 6 from bottom.
- Page 100, under "HOUSING—" in line 2, after "re-housing" insert "scheme".
- Page 103, in line 9, for "1958-69" read "1968-69".
- Page 107, for line 28 from bottom, read "INDUSTRIAL DISPUTES BILL—"; and omit line 24 from bottom.
- Page 110, above line 11 from bottom, insert "Motion re—".
- Page 122, at the end of last line, read "Simla. 3068-69."
- Page 123, omit line 3 from top.
- Page 127, under "LANGUAGE—" after line 3, insert "order in addressing the House in a vernacular and ruling by Mr. President that an Honour-".
- Page 134, omit line 5 from bottom and in last line, for "890-92" read "990-92".
- Page 138,—(i) under "MANUFACTURE—" in lines 13 and 14, for "dry-stuffs" read "dyestuffs";  
(ii) under "MANU SUREDAR, MR.—" omit line 4, and in line 5, insert "2753 59" before existing page numbers.
- Page 140, in line 35 from bottom, for "drystuffs" read "dyestuffs".
- Page 144, under "MATTHAI, THE HONOURABLE DR. JOHN—" after line 3, insert "Construction of new lines. 1950."

- Page 149, under "MOMBASA—" for the illegible figure read "96".
- Page 153, under "MUTINY—" after existing figures read "763-64".
- Page 154, for existing line 10 from bottom read "Recommendations of the Armed Forces Nationalisation Committee. 1758." and omit line 8 from bottom.
- Page 156, under "NAVY, ROYAL INDIAN—" in line 7, for "the Committee" read "the report of the Committee".
- Page 161, below last line, insert "See also 'Factory(ies)'"
- Page 162, for existing line 16, read "OUDH AND TIRHUT RAILWAY—" and omit lines 1 and 2 at top of the page.
- Page 169, under "PIPERADIH COLLIERY—" for "3389" read "3388".
- Page 172, omit line 7 and transfer the next line after line 1 under "POSTAL EMPLOYEE(S)—".
- Page 173, under "PRESS(ES)—" omit line 1.
- Page 180, for line 7 from bottom, read "Increase of — fares below Re. 1. 1228-29."
- Page 184, in line 10, the missing figure is "1097".
- Page 191, in line 18, for "2920" read "2926".
- Page 199, omit last line.
- Page 204, omit line 3 from bottom.
- Page 205, for existing line 3 from bottom, read "strike. 19-20."
- Page 206, at the end of last line, insert "Provinces. 169-70."
- Page 214, for existing line 18 from bottom read "SKELTON—".
- Page 220, at the end of line 9 from bottom, insert "1313-14".
- Page 223, in line 21 from bottom, for "strike as" read "strikers at".
- Page 224, under "SUGAR—" insert "Question re—" as first line.
- Page 226, under "SUNHEMP—" for "1608. 07" read "1606-07".
- Page 232, in last line, for "89" read "88".
- Page 251, line 19 from bottom, for "3396" read "3395".
- Page 252, after line 7, insert "Motion re—".

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# LEGISLATIVE ASSEMBLY

Wednesday, 19th March, 1947

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

## STARRED QUESTIONS AND ANSWERS

### (a) ORAL ANSWERS

#### MEETINGS OF THE INTERNATIONAL TRADE ORGANISATION AND INDIA'S TRADE AGREEMENTS WITH OTHER COUNTRIES.

†1039. \***Mr. Manu Subedar:** (a) Will the Honourable the Commerce Member please state the outcome of the International Trade Organization meeting in Paris in the month of November 1946?

(b) Are trade agreements to be made with each country separately, or, will a general charter regulate the relation of trade with all?

(c) Is a trade treaty contemplated or suggested between India and Australia, as the result of the trade missions bothways?

(d) Is a trade treaty between India and the United Kingdom under discussion and, if so, will it be on the lines of the International Trade Organization charter, or on independent lines, and will it be negotiated separately after the result of the Constituent Assembly is known?

(e) Are any modifications in trade relations with any country contemplated independently of the meeting in connection with the International Trade Organization in April?

**The Honourable Mr. I. I. Chundrigar:** (a) Probably the Honourable Member is referring to the meeting of the Preparatory Committee of International Trade and Employment which was held in London during October-November 1946. If so, the answer is that the work of the Preparatory Committee has not yet been completed and will be continued at its second meeting to be held in Geneva in April 1947.

(b) It is contemplated that the tariff negotiations among the members of the Preparatory Committee will be multilateral both in scope and application. They will, however, be carried on in accordance with the general provisions of the draft Charter of the International Trade Organisation.

(c) and (d). India, United Kingdom and Australia are participating in the International Trade Conference, and should the Conference succeed, they would automatically become parties to the multilateral Trade Agreement. No other Trade Agreement or Treaty is contemplated at present.

(e) No; not at present.

**Mr. Manu Subedar:** May I know whether in regard to some provisional conclusions which may be reached in the London Conference and before the Geneva Conference starts, the Honourable Member will give this House an opportunity of knowing what has occurred and perhaps ascertain the views of this House with regard to Geneva?

**The Honourable Mr. I. I. Chundrigar:** So far as the London Conference is concerned, India is not going to make any commitment whatsoever. The London Conference is only of an informal character to discuss what attitude should be taken up at the Geneva Conference. As there is going to be no commitment, the question of consulting this House does not arise.

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† This question was put in the second round.



**Prof. N. G. Ranga:** Are we to understand that this multilateral agreement will be entirely binding on us as soon as it is agreed upon there, or is it liable to be considered by Government and placed before this House before Government actually give their sanction?

**The Honourable Mr. I. I. Chundrigar:** When negotiations between two countries or several countries take place, it would not be possible to say that India does not commit itself to any agreement and wants it to be confirmed by this House. If every country were to adopt such an attitude, no conclusions can be reached and no agreement can be negotiated at a conference like this. The delegates who are to be sent to Geneva are given a brief by the Government of India and they have been advised to consult the Government of India from time to time as circumstances require, and not to make any commitments before the Government of India have fully examined the question.

**Mr. Manu Subedar:** In view of the fact that India's rather backward economic condition and the inflationary condition in which this country still is requires freedom of action in the international economic field may I know if Government have examined the proposition from that point of view and whether in the brief which the Government of India have prepared they have provided that the surrender of freedom to deal individually with countries either by way of barter or by way of special agreements will not be surrendered prematurely by this country?

**The Honourable Mr. I. I. Chundrigar:** Government have fully examined the question and are fully alive to the importance of the point raised by the Honourable Member; and the delegates have been given the necessary instructions.

**Sjt. N. V. Gadgil:** Will the same procedure be followed here as was done in the case of the Ottawa Agreement which was placed before this House for ratification?

**The Honourable Mr. I. I. Chundrigar:** The matter will be considered after the agreement is reached.

**Prof. N. G. Ranga:** Then are we to understand that Government have already come to a decision in regard to the advisability of their not only taking part but also accepting the principle of multilateral trade agreements in preference to bilateral trade agreements?

**The Honourable Mr. I. I. Chundrigar:** No final decision has been reached. It will be decided after considering the advantages and disadvantages of the final picture which will be placed before us.

**Dr. Zia Uddin Ahmad:** In view of the fact that all trade agreements between India and other countries were ratified by this House may I know if the same practice will be followed in future?

**The Honourable Mr. I. I. Chundrigar:** I have said that the question will be considered as soon as an agreement is concluded.

#### APPOINTMENT OF TRADE COMMISSIONERS FROM THE MERCANTILE COMMUNITIES

1040. **\*Seth Govind Das:** (a) Will the Honourable the Commerce Member be pleased to state whether the appointments of Trade Commissioners of this country in other countries are made from the mercantile communities of this country?

(b) Have the commercial institutions of this country been called upon to suggest names of suitable candidates for appointment as Trade Commissioners, their Assistants and staff?

(c) Do Government propose to give any training on commercial matters to the Trade Commissioners and their staff before their appointment in other countries?

(d) Do Government propose to consider the desirability of appointing an Assistant or an Assistant Trade Commissioner, in every country where there is a Trade Commissioner, specially drawn from commercial communities or found qualified in commercial matters?

**The Honourable Mr. I. I. Chundrigar:** (a) to (d). It has so far been the practice to recruit Trade Commissioners from Government service as also from non-officials possessing business experience. Commercial institutions, however, are not called on to advise Government with regard to the selection of the latter, as such recruitment is made by the Federal Public Service Commission who call for applications through the Press from eligible candidates. It has also been the practice to give officers selected for appointment as Trade Commissioners preliminary training in the Commerce Department and in the office of the Director of Commercial Intelligence, Calcutta. Facilities are also given to them to contact various Chambers of Commerce and trade organisations before they take up their duties abroad.

I may add, however, for the information of the Honourable Member that the entire question of the appointment of and the training to be imparted to Trade Commissioners is under active consideration. I may assure the Honourable Member that the points raised by him in this regard will be borne in mind during these discussions.

#### INDEPENDENT STATE FOR NAGAS.

†1041. **\*Seth Govind Das:** (a) Will the Honourable Member for External Affairs be pleased to state whether Government are aware of an Orient Press of India message, dated 23rd December 1946, according to which Messrs. A. Z. Phizo and M. T. Sakhrie in an interview with the Special Correspondent of the *Azad*, stated that the Nagas stand for a separate independent state of their own?

(b) If so, have Government got any information to the effect that the Nagas want to remain separate from the rest of India?

**The Honourable Pandit Jawaharlal Nehru:** (a) Yes.

(b) Government are informed that the statement referred to has no particular importance and does not represent any substantial body of opinion.

#### EXPORT LICENCES TO BUSINESSMEN OF NOVA GOA TO EXPORT GUNNY BAGS TO PORTUGAL AND TO SOUTH AFRICA.

†1042. **\*Seth Govind Das:** Will the Honourable the Commerce Member please state:

(a) whether the attention of Government has been drawn to the A. P. I. message of the 24th December, 1946 that licences have been granted to businessmen of Nova Goa to export gunny bags to Portugal and Portuguese Africa and that from there these bags are likely to be shipped to South Africa;

(b) whether Government are aware that similar attempts to export gunny bags from Ceylon to South Africa have also succeeded; and

(c) what steps have been taken by the Government of India to prevent such exports to South Africa?

**The Honourable Mr. I. I. Chundrigar:** (a), (b) and (c). More than a week before the A.P.I. message referred to by the Honourable Member was published in the Press, the Government had been warned by His Britannic Majesty's Consul at Nova Goa of possible attempts by certain businessmen to export gunny bags through Goa to Portugal and Portuguese East Africa, for possible despatch to destinations in South Africa.

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

As regards re-exports from Ceylon and the various steps taken by Government to prevent supplies from reaching South Africa, necessary preventive steps were taken forthwith with satisfactory results.

#### GOODWILL MISSION TO THE MIDDLE EAST.

†1043. \*Seth Govind Das: (a) Will the Honourable Member for External Affairs please state when Government propose to send the Goodwill Mission to the Middle East to which he referred in his first Press Conference as Foreign Member?

(b) What will be the personnel of this Mission?

(c) Who will lead it?

The Honourable Pandit Jawaharlal Nehru: (a), (b) and (c). It has not yet been possible to fix a date for the despatch of a Goodwill Mission to the Middle East, nor the composition of the Mission.

#### LICENCES FOR EXPORT OF INDIAN COTTON.

†1044. \*Seth Govind Das: (a) Will the Honourable the Commerce Member be pleased to state how many licences for the export of Indian cotton have so far been given for the period of January—April, 1947?

(b) What is the quota of cotton export to various countries?

(c) In view of the cloth shortage in India, do Government propose to consider the advisability of producing more and more yarn in India itself?

The Honourable Mr. I. I. Chundrigar: (a) I lay a statement on the table indicating quantities of cotton licensed for export.

(b) The system of destinational quotas has been recently abolished, and hence there are now no specific quotas for any countries.

(c) Steps have been taken to increase the production of yarn and cloth by endeavouring to arrange (1) working of three shifts in textile mills wherever possible, (2) working for nine hours a day in the Cotton Textile Mills instead of eight hours wherever possible on payment of overtime allowance to workers in mills where three shifts working is not possible, (3) increased supply of coal to textile mills, and (4) issue of import licences for Import of new machinery.

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

*Statement showing the quantities of raw cotton licenced upto 28th February 1947 against January -- April 1947 quotas*

STARRED QUESTIONS AND ANSWERS

2135

Quantities are in bales

1 bale=400 lb. approx.

Name of Group	Karachi			Bombay			Calcutta			Total						
	Short Staple	Medium Staple	Long Staple	Total	Short Staple	Medium Staple	Long Staple	Total	Short Staple	Medium Staple	Long Staple	Total				
United Kingdom	18,610	7,440	11,170	37,220	2,457			2,457	..			..	21,067	7,440	11,170	89,677
European countries other than U. K. and Germany.	17,091	6,829	10,249	34,169	7,478	2,271	1,888	11,287	..	..	..	..	24,569	9,100	11,797	45,466
U. S. A.	11,969			11,969	1,250		..	1,250	..	..	..	..	18,219			18,219
China	7,312	2,921	4,388	14,621	1,466	536	..	2,062	..	..	..	..	8,778	8,507	4,888	16,678
Other countries	3,272	10	15	3,297	495	250		745	..	..	..	..	3,767	260	15	4,042
Total	58,254	17,200	25,822	1,01,276	13,146	3,107	1,888	17,791					71,400	20,807	27,860	1,19,067

PROCEDURE REGARDING THE IMPORT OF CAPITAL GOODS FROM STERLING AND  
NON-STERLING AREAS

†1045. \***Maharajkumar Dr. Sir Vijaya Ananda:** (a) Will the Honourable the Commerce Member be pleased to state if it is a fact that Government in the first instance consider applications only for the import of capital goods from the sterling area and that in the case of applications for imports from non-sterling area countries, Government require the importers first to ascertain that the goods to be imported are not available in the sterling area?

(b) If so, do Government propose to consider the desirability of stopping this procedure which puts Indian industrialists to extra expenditure?

**The Honourable Mr. I. I. Chundrigar:** (a) No Sir. The Honourable Member's attention is invited in this connection to the Press note issued by Government on the subject on the 14th September 1946, a copy of which is laid on the table.

(b) Does not arise.

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PRESS NOTE

*Imports of Capital Goods from Non-Sterling Area Countries.*

Representations have recently been received by the Government of India that machinery manufacturers in the United Kingdom quote considerably higher prices and longer periods of delivery for capital goods as compared with the terms offered by manufacturers in hard currency countries. These representations have been considered by the Government of India and with a view to enable industrialists to obtain their requirements from the countries which offer relatively more favourable terms, it has been decided to allow importation of capital goods and machinery from hard currency countries if it is proved that the U. K. prices for a comparable plant of equal performance is appreciably higher and/or the period of delivery is longer.

With a view to further assist industrialists, it has been decided that the responsibility for ascertaining non-availability of capital goods in the sterling area should henceforth be assumed by Government and steps are being taken to dispose of applications as expeditiously as possible.

COMMERCE DEPARTMENT;

New Delhi, September 14, 1946.

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FINANCIAL SUPPORT TO AFGHAN SARDARS DETAINED IN POONA

†1046. \***Haji Abdus Sattar Haji Ishaq Seth** (on behalf of Mr. Ahmed E. H. Jaffer): (a) Will the Honourable Member for External Affairs please refer to reply to part (b) of starred question No. 410 asked on the 12th November, 1946 regarding the detention of Afghan Sardars in Poona and to state whether a reply to the reference regarding the three Chief Afghan Sardars, viz: Sardar Inayat Ullah Khan, Sardar Hafiz Ullah Khan, Sardar Habib Ullah Khan and Syed Mohamed Yakub Khan, ex-Brigadier, Afghan Army, detained in Poona has now been received from the Government of Afghanistan?

(b) If the answer to part (a) above be in the affirmative, have Government reviewed the case of the Afghan Sardars for better financial support in the light of the reply received from the Afghan Government?

**The Honourable Pandit Jawaharlal Nehru:** (a) Yes. The Afghan Government have replied that they are unwilling to permit these Sardars to return to Afghanistan and have reiterated their objection to their being permitted anywhere near the Indo-Afghan border.

(b) Certain proposals for increasing the allowances are under consideration and a decision may be expected in the near future.

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

‡ This question was put in the second round.

## DETENTION NOTICES BY POLICE ON AFGHAN SARDARS IN POONA

†1047. \*Haji Abdus Sattar Haji Ishaq Seth (on behalf of Mr. Ahmed E. H. Jaffer): (a) Will the Honourable Member for External Affairs be pleased to refer to reply to starred question No. 410 asked on the 12th November, 1946 and state whether Government are aware that the Four Afghan Sardars detained in Poona are still being summoned to the office of the District Superintendent of Police at Poona, and are being required to sign certain detention notices issued for service on them by the Political Department of the Government of India?

(b) Are Government aware that on the 22nd December, 1946 the Afghan Sardars were summoned by the District Superintendent of Police, Poona and required to sign certain notices in token of their acceptance of the position of detenus and that they refused to accept the position, which those notices purported to enforce on them?

(c) What is the cost of the Police Staff that is being maintained in Poona for keeping watch on the movements of the Afghan Sardars?

**The Honourable Pandit Jawaharlal Nehru:** (a) and (b). The Honourable Member appears to have been misinformed. No detention notices have been issued against these Sardars. What have been issued against them are orders under Section 36 of the Frontier Crimes Regulation prohibiting their entry into the North West Frontier Province and Baluchistan. These orders were issued on the instructions, not of the Political Department, but of the External Affairs Department by the Political Agent, Khyber, who is legally empowered to issue such orders under this Regulation.

(c) No special Police Staff is maintained for this purpose.

**Haji Abdus Sattar Haji Ishaq Seth:** With reference to the reply to part (a), are these orders issued because the Afghan Government want them to be issued or are they issued by Government on their own initiative?

**The Honourable Pandit Jawaharlal Nehru:** All orders issued in regard to their entry into the frontier areas are issued because the Afghan Government do not want them to go there.

**Haji Abdus Sattar Haji Ishaq Seth:** With regard to these details that they are often called to the police station and asked to sign different papers, will the Honourable Member see that they are not unnecessarily harassed and these orders are relaxed?

**The Honourable Pandit Jawaharlal Nehru:** Most certainly we do not wish any of them to be harassed at all. To some extent the local police are sometimes overzealous in the matter, but there is no question of having any supervision over them. The only point is that they are not allowed to go to the frontier areas; otherwise they are free.

**Haji Abdus Sattar Haji Ishaq Seth:** With regard to the details given in the question that they have to go to the police station and sign certain papers, cannot the Honourable Member see that these orders are relaxed in their case?

**The Honourable Pandit Jawaharlal Nehru:** Yes, Sir, certainly.

**Shri D. P. Karmarkar:** May I know if the Government of India are under any international obligation to keep them within India so long as the Afghan Government want?

**The Honourable Pandit Jawaharlal Nehru:** No, Sir; if they want to go outside India they can go now. The only thing is that they should not go to the frontier areas. That too is not exactly a legal obligation but an obligation to a friendly Government.

†This question was put in the second round.

**Shri D. P. Karmarkar:** Do I understand that the Government of India are prepared to grant them passport facilities if they desire to go outside this country?

**The Honourable Pandit Jawaharlal Nehru:** Yes, Sir; if they desire to go out of India they can certainly do so.

**Mr. Manu Subedar:** Sir, May I ask my questions now† in the regular round?

**Mr. President:** There is no question of a regular round. The Honourable Member was absent when his questions were called. With regard to Mr. Jaffer's questions they came in the second round because of the authority given to Mr. Ishaq Seth.

**Haji Abdus Sattar Haji Ishaq Seth:** Sir, the previous practice has been that once you exhaust the list those Members who were absent when they were first called are allowed to put their questions, provided it is within the question hour.

**Mr. President:** I take it from the Honourable Member that that has been the practice. But I should like to consider this matter. There is plenty of time yet for the question hour to be exhausted and the Honourable Member may put his questions; but I should not like this to be treated as a precedent.

#### PETROLEUM ADVISER TO THE GOVERNMENT OF INDIA

‡1048. **Mr. Manu Subedar:** (a) Will the Secretary of the Department of Works, Mines and Power be pleased to state who is the Petroleum Adviser to the Government of India?

(b) What is his emolument and is he still connected with any company, and if so, with which company?

**Mr. B. K. Gokhale:** (a) Mr D. D. H. Thomas, Delhi Branch Manager of Messrs. Burmah-Shell Oil Storage and Distributing Company (India) Limited, is the Petroleum Adviser to the Government of India.

(b) He acts in an honorary capacity but receives (i) a monthly office allowance of Rs. 35 only; (ii) While on tour on Government work, travelling allowance as admissible to a first grade Government servant under the Government of India and a daily allowance of Rs. 25 only.

As stated above, Mr. D. D. H. Thomas is connected with Burmah-Shell and is in their employment.

**Mr. Manu Subedar:** Is he making periodical reports or is he giving conversational advice to Government?

**Mr. B. K. Gokhale:** Both oral and written advice, from time to time, as occasion might demand.

**Mr. Manu Subedar:** Will the Honourable Member tell this House the nature of the advice, the nature of the topics with which he deals, and the necessity for continuing the arrangement which was purely war time?

**Mr. B. K. Gokhale:** This arrangement was made as a wartime measure when the advice of the Petroleum Adviser was frequently sought on technical points regarding the supply of oil, particularly to the Armed Forces. In respect of commercial aspects of the problem, it was found useful by the Government to consult the Adviser rather than individual oil companies. The Transport Department also consult this gentleman in respect of petrol rationing, and the Chief Inspector of Explosives in respect of the operation of the Petroleum Act and Rules. Although his functions have been considerably reduced since the termination of the war, he is still rendering very useful service in such matters as negotiations over the sale of surplus Government oil equipment between the Director General of Disposals and the Oil Companies. For the purpose of

†These questions and answers have, however, been printed serially in these Debates.

‡This question was put in the second round.

speeding up disposals, it is convenient to work through the Adviser who co-ordinates offers made by individual companies. As regards the procurement of petrol and petroleum products, we have not yet gone back to peace conditions since 90 per cent. of our requirements are still provided by His Majesty's Government and supplied through the Lawson Committee whose representative in Delhi is our Petroleum Adviser. The present sanction to the post is up to the end of February 1947 and the question whether the tenure should be extended for a further period is now under consideration.

**Mr. Sasanka Sekhar Sanyal:** Why is it not possible for the Government to get the services of one who is not connected with any company?

**Mr. B. K. Gokhale:** The difficulty is to find a man who is not connected with companies and yet is in a position to give expert advice on oil and petroleum.

**Mr. Sasanka Sekhar Sanyal:** Is it not possible that this particular company by virtue of the fact that their officer is also Adviser to the Government of India gets special advantages from the Government?

**Mr. B. K. Gokhale:** No, Sir. In actual practice all the oil companies are working together jointly through the Lawson Committee, and it is the Lawson Committee which really advises Government through this Adviser.

**Mr. Sasanka Sekhar Sanyal:** Do I understand that the Government of India have no such secrets as should not be divulged to the oil companies?

**Mr. B. K. Gokhale:** Petroleum only came to my department about a month ago, and I have not yet discovered whether there are any secrets which should not be divulged to oil companies.

**Mr. Manu Subedar:** Have the Government examined the question that when an official of the oil company is their Adviser particularly with regard to disposals in which his own company may be interested in purchasing whether the position will be altogether suitable? Have Government examined this question, and if not will they consider all aspects of the question now that we are in peace time?

**Mr. B. K. Gokhale:** I will bring my Honourable friend's question to the notice of the Industries and Supplies Department, because they are dealing with disposals.

**Prof. N. G. Ranga:** Who are the members of this Lawson Committee of which this gentleman is the Secretary?

**Mr. B. K. Gokhale:** All the oil companies in India have a representatives on the Lawson Committee.

**Prof. N. G. Ranga:** Have the Government of India also any representatives on it, and if so is any one of them an Indian?

**Mr. B. K. Gokhale:** There is no representative of the Government of India on the Lawson Committee. It is entirely a non-official body composed of representatives of all the oil companies in India.

**Prof. N. G. Ranga:** Am I right in understanding that this committee is a European combine, and there is no Indian at all on it?

**Mr. B. K. Gokhale:** I could not say if there is an Indian on it, but they are representatives of oil companies in India. Presumably they are all Europeans; but I am not prepared to say definitely if there is any Indian.

**Dr. Zia Uddin Ahmad:** Is the Honourable Member aware of the fact that Advisers in all departments belong to the trade and that it is not only the case with Petroleum? An adviser should be a person who knows his subject.

**Mr. B. K. Gokhale:** I am not aware whether advisers in other departments are connected with trade, or not.



## EXPANSION OF MERCANTILE SHIPPING OF INDIA

†1049. \***Captain Syed Abid Hussain**: Will the Honourable the Commerce Member please state:

(a) whether it is a fact that the Government of India propose adopting a policy of rapid expansion in the Mercantile Shipping of India;

(b) if so, whether Government are considering the question of giving greater facilities and expanding the scope of institutions for training officers to meet the increasing demands of the Indian Mercantile Marines; and

(c) if so, whether Government propose to set up a separate institution like the I.M.M.T.S. "Dufferin" in Karachi or Calcutta; if not, why not?

**The Honourable Mr. I. I. Chundrigar**: (a) and (b). Yes.

(c) Government of India are shortly appointing a Committee to go into the question of expansion of training facilities for cadets for the Mercantile Marine in India. Government would keep this suggestion in mind when considering the report of that Committee.

COMMUNAL PROPORTION IN SELECTING CADETS FOR *I. M. M. T. S. Dufferin*.

†1050. \***Captain Syed Abid Hussain**: Will the Honourable the Commerce Member please state:

(a) the total number of Cadets that have passed out of I.M.M.T.S. "Dufferin" since its inception giving the number from each community separately; and

(b) whether the Government of India propose to fix a communal proportion in selecting Cadets in future. if not, why not?

**The Honourable Mr. I. I. Chundrigar**: (a) The information asked for, up to the end of 1946, is as follows: Hindus 325, Christians 229, Muslims 65, Parsees 45, Sikhs 34, Budhists 17, Jews 8.

(b) Government have the matter under consideration.

## MUSLIMS AS TRADE COMMISSIONERS

†1051. \***Captain Syed Abid Hussain**: (a) Will the Honourable the Commerce Member please state the total number of Trade Commissioners ever appointed by the Government of India?

(b) Out of these, how many Muslims have ever been appointed?

(c) How many Muslims are holding appointments at the moment, and in what countries?

**The Honourable Mr. I. I. Chundrigar**: (a) Twenty.

(b) Four.

(c) Two, one in Egypt and the other in Iran.

## FORWARD DELIVERY TRANSACTIONS IN COTTON AND KAPPAS

1052. \***Pandit Mukut Bihari Lal Bhargava**: Will the Honourable the Commerce Member be pleased to state:

(a) whether the Commerce Department Notification No. P. and S. C. 56/43, dated the 19th May, 1943, prohibiting the forward delivery transactions in cotton and kappas, is in force still, or whether it has been modified or cancelled;

(b) the places in British India where the forward delivery transactions in cotton and kappas are going on at present;

(c) the places in British India where no such restrictions exist and the reasons for not enforcing the restrictions in such places; and

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

(d) in what other commodities speculative transactions are allowed in British India and for what reasons?

**The Honourable Mr. I. I. Chundrigar:** This question concerns the Department of Industries and Supplies. It has accordingly been transferred to them, and will be answered by the Honourable Member in charge of that Department.

**Mr. Sasanka Sekhar Sanyal:** Will the Honourable Member consider the desirability of forwarding these questions to the proper Department at an earlier stage and thus save the time of the House?

**Mr. President:** This has been explained more than once.

#### LABOUR WELFARE OFFICERS IN ORDNANCE ESTABLISHMENTS

**1053. \*Sjt. Seth Damodar Swroop:** Will the Honourable the Labour Member please state:

(a) whether Government are aware that the Labour Welfare Officers in Ordnance establishments do not work for the promotion of Labour Welfare being responsible to the Officers-in-charge of those establishments; and

(b) whether Government propose to consider the advisability of posting trained officers, responsible directly to the Labour Department, to look after the 'Labour Welfare' in the ordnance establishments?

**The Honourable Shri Jagjivan Ram:** (a) The question should have been addressed to Defence Department. I have, however, made enquiries and understand that no complaints of the kind have been received by them.

(b) The possibility of establishing a central pool of trained Labour Officers under the Labour Department whose services will be made available for employment as such in Central Government undertakings is under consideration.

#### SENIOR INDIAN OFFICERS IN THE MILITIA AND SCOUT BATTALIONS IN THE N. W. F. PROVINCE.

**†1054. \*Sardar Mangal Singh:** Will the Honourable Member for External Affairs please state:

(a) the number of senior Indian Officers above the rank of Captain who are posted in the Militia and Scout battalions and similar other corps in the North West Frontier Province and Baluchistan;

(b) whether it is a fact that all the senior Indian Officers who were second-in-command and were fit to take over command of their battalions have been transferred elsewhere; and

(c) when it would be possible for Indian Officers to take over the command of their battalions?

**The Honourable Pandit Jawaharlal Nehru:** (a) None at present.

(b) Only one Indian Officer who was second in command and fit to take over command was reverted to the Army having completed more than the normal tenure of secondment to Frontier Corps.

(c) Two Indian Officers of the rank of Major, including the one referred to in reply to part (b) above with previous experience of Frontier Corps would normally be considered to be senior enough to take over command when vacancies occur in approximately one year's time provided they could be made available by the Army. But the whole question of finding suitable Indian Officers for the army as well as the Frontier Corps has to be considered now in the new context that has arisen. It is at present under examination in consultations with the army authorities.

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

**UNFILTERED WATER SUPPLY IN 'A' TYPE QUARTERS IN TIBBIA COLLEGE  
COMPOUND, KAROL BAGH, DELHI.**

**1055. \*Hajee Chowdhury Mohammad Ismail Khan:** (a) Will the Secretary of the Works, Mines and Power Department please state whether Government are aware that there is a Park in close proximity to the Tibbia College Compound, Karol Bagh, Delhi?

(b) Are Government aware that the Park area referred to in part (a) above is served by the unfiltered water supply system?

(c) Are Government aware that "A" type quarters located in the Tibbia College Compound, Karol Bagh, Delhi, are not served by the unfiltered water supply system?

(d) Are Government aware that the areas of "A" type quarters located in the Tibbia College Compound, Karol Bagh, Delhi, and that of the Park are separated only by a small road?

(e) In view of the fact that the Park area is in close proximity to the "A" type quarters located in the Tibbia College Compound, Karol Bagh, Delhi, do Government propose to extend the unfiltered water supply system from the Park area to that of the "A" type quarters in the Tibbia College Compound for growing vegetables? If not, why not?

**Mr. B. K. Gokhale:** (a) to (d). Yes.

(e) It is not possible to extend the unfiltered water supply system to these quarters at present owing to shortage of supply of unfiltered water and the expenditure involved.

**Miss Maniben Kara:** In view of the fact that there is only a very small road which separates the quarters, will the Honourable Member consider the desirability of incurring that expenditure for the convenience of the employees of the Government of India?

**Mr. B. K. Gokhale:** The Government of India have every sympathy with the employees and would be only too pleased to provide amenities for them. The difficulty here is not merely the question of expenditure but the fact that the land on which these quarters stand does not belong to Government. It is a requisitioned property and may have to be returned at any moment. The quarters are not permanent; they are semi-permanent. And apart from the question of expenditure and all these difficulties which I have mentioned, there is great shortage of unfiltered water-supply in Delhi during summer and Government do not consider it possible to extend the unfiltered water-supply anywhere at present.

**Miss Maniben Kara:** Is the Honourable Member aware that there are five blocks in that area and each member of the block has to pay a flat rate of Rs. 4 for the water which he does not consume?

**Mr. B. K. Gokhale:** I do not know what is the rate for the filtered water-supply which is at present available; but I presume it is the usual rate which is charged by the Municipality for Delhi water-supply.

**Miss Maniben Kara:** Since there is a flat rate of Rs. 4 charged to the tenants, may I inquire if these tenants will be allowed to use the water for their necessary purposes? The tenants are not consuming water worth Rs. 4. Can they use it for necessary purposes?

**Mr. B. K. Gokhale:** If they are paying for the water, I presume they are allowed to use it for their legitimate purposes. But every summer the Chief Commissioner issues a notification according to which filtered water-supply cannot be used for gardening or such other purposes.

**Lala Deshbandhu Gupta:** In view of the fact that Karol Bagh area is fast developing on the lines of New Delhi, will Government state whether there is any scheme under consideration to improve the unfiltered water-supply of that area?

**Mr. B. K. Gokhale:** Yes, Sir; there is a scheme under consideration to increase the unfiltered water-supply; but there, again, we are up against various difficulties. The Government of the United Provinces have complained about the amount of water which we are taking out of the Jumna and the matter is under negotiation.

**PROVISION OF COURTYARDS AND HEDGE FENCING IN 'A' TYPE QUARTERS IN TIBBIA COLLEGE COMPOUND, KAROL BAGH, DELHI.**

**1056. \*Hajee Chowdhury Mohammad Ismail Khan:** (a) Will the Secretary of the Works, Mines and Power Department please state whether Government are aware that there is ample open ground between the blocks of "A" type quarters located in the Tibbia College Compound, Karol Bagh, Delhi?

(b) Are Government aware that "A" type quarters located in the Tibbia College Compound, Karol Bagh, have no courtyards for sleeping purposes during the hot months of the year?

(c) Are Government aware that in the absence of any courtyard, the tenants, with the female members of their families, have during the summer season to sleep in the open ground in front of their quarters where there is no privacy?

(d) If so, do Government propose to allot a portion of open ground to each quarter and allow the tenants to provide hedge-fencing in front of their quarters at their own cost? If not, why not?

**Mr. B. K. Gokhale:** (a) and (b). Yes.

(c) It is understood that the occupants of the first floor sleep on the terraces while the occupants of the ground floor sleep in front of their quarters.

(d) Hedge-fencing is not possible as there is no unfiltered water supply for these quarters.

**Miss Maniben Kara:** The Honourable Member in his reply has admitted that the women folk in the house have to sleep in the night in the open. Will he consider the desirability of erecting a small wall in order to maintain the privacy of the family?

**Mr. B. K. Gokhale:** The matter will be considered; but it is difficult to ensure privacy by a small wall when these quarters are double storeyed and the first floor will necessarily overlook the ground floor.

**Miss Maniben Kara:** Does not the Honourable Member think that by having even some protection on the front of the road the family could be assured of some privacy from the public outside?

**Mr. President:** This would be a matter of argument.

**Sri E. Venkatasubba Reddiar:** Will Government consider the desirability of putting temporary screens in order to have some privacy for the houses?

**Mr. B. K. Gokhale:** I am perfectly willing to have the matter examined. But it does not merely affect these quarters but affects all such quarters in Delhi, and the incurring extra expenditure on semi-permanent structures which may cease to be under our control within a short time, deserve very serious consideration.

**EXPORT OF GROUNDNUT OIL AND KERNEL.**

**1057. \*Babu Ram Narayan Singh:** (a) Will the Honourable the Commerce Member be pleased to state whether it is a fact that Government have decided to export groundnut oil and groundnut kernel and if so, (i) in what quantity, (ii) for what consideration, and (iii) to which countries?

(b) Are Government aware that in this country groundnut is also used as food and if so, what are the circumstances which lead or force Government to export it when the country itself is in need of it?

(c) What is the purchasing price of groundnut in this country and what is its selling price in the countries to which it is exported?

**The Honourable Mr. I. I. Chundrigar:** (a) Yes.

(i) For the season beginning from November 1946 an export quota of 110,000 tons groundnut kernel and 76,000 tons oil has been fixed.

(ii) These quantities are surplus to the requirements of the country.

(iii) The question of allotment of quotas to various countries is under consideration in consultation with the International Emergency Food Council. It is therefore, not possible to state to which countries quotas will be allotted.

(b) Yes. The reason for allowing export has already been given in the reply to part (a) (ii).

(c) In view of the recent decision of the Government removing internal control on oilseeds, it is not possible to say at what prices groundnut will be available, when exports actually take place, nor can the prevailing prices in the importing countries then be definitely foretold.

**Babu Ram Narayan Singh:** How do Government know that groundnuts are not necessary for food in the country? On what basis have the Government come to this decision?

**The Honourable Mr. I. I. Chundrigar:** The Government have taken into consideration the quantities used in the country during the last several years, and on that basis they have made an estimate of the requirements of oil in the country. I may inform Honourable Members of the House, that this estimate is made after taking into consideration the larger quantity now required in view of the rise in the standard of living and we have provided for an increased consumption in the country accordingly in our estimates.

**Dr. Zia Uddin Ahmad:** What is the difference in price per ton between the internal price in India and the price in the country of destination?

**The Honourable Mr. I. I. Chundrigar:** These prices vary from country to country and from day to day and unless we know the countries, to which the surplus groundnut-seed and oil from this country will be exported, after allocation by the International Emergency Food Council, it will be difficult to give a comparison in prices.

**Dr. Zia Uddin Ahmad:** Assuming they will be exported to a country where the prices are maximum, in order to get maximum profit, what is the maximum price decided for the country?

**The Honourable Mr. I. I. Chundrigar:** So far as oil is concerned, today it is the seller's market. A report reached Government that the Argentine had sold groundnut oil to U. K. at nearly 400 per cent. of price prevailing in India. Much depends upon the requirements of the country and also the position of the country which purchases it. It is not, therefore, possible to say with any accuracy what will be the prices which can be realised in a particular country.

**Dr. Zia Uddin Ahmad:** In view of the fact that profit is nearly 400 per cent., why should not Government send all these things direct so that the taxpayer might be benefitted?

**The Honourable Mr. I. I. Chundrigar:** The profit is not likely to be 400 per cent. in all cases. That is the price dictated by the Argentine in the particular case. As I mentioned yesterday during the debate on the Import and Export Control Bill, Government have decided to introduce a system of tenders so that Government can get a share of the higher external price according to the market rate prevailing in the country where the oil is to be exported.

**Mr. Manu Subedar:** In view of the fact that groundnuts and groundnut oil are not used by the foreign powers for food only but for various commercial purposes, will Government examine whether this particular item cannot be freed from the control of the International Emergency Food Council and whether Government will examine the position whether in interchange for groundnuts and oil which are so much coveted in the world, they cannot get capital goods, like machinery, steel, cloth and paper which we are so much in need of?

**The Honourable Mr. I. I. Chundrigar:** It would be difficult to contend that oil is not an article of food, though it is used no doubt for other purposes also. The International Emergency Food Council is at present controlling oils. The Government will examine the question whether a representation can be made to the International Emergency Food Council to take out oil out of the purview of the allocations by the International Emergency Food Council.

**Sri V. C. Vellingiri Gounder:** What are the countries to which groundnuts are being sent at present?

**The Honourable Mr. I. I. Chundrigar:** The names of countries will be determined by the International Emergency Food Council. An announcement is expected shortly.

**Sri V. C. Vellingiri Gounder:** Will the Honourable Member get the information from the International Emergency Food Council and communicate the same to this House.

**The Honourable Mr. I. I. Chundrigar:** We will get the information as we will not be able to export without our getting the information. We are expecting the information in a few days time.

**Sri V. C. Vellingiri Gounder:** Can't he state the countries now?

**The Honourable Mr. I. I. Chundrigar:** I am not in a position to state them now, as the International Emergency Food Council has not yet determined the countries to which the export from India should take place. As soon as it is determined, the names of the countries will be announced.

**Mr. Sasanka Sekhar Sanyal:** Have not Government suggested the names to the International Emergency Food Council?

**The Honourable Mr. I. I. Chundrigar:** We have made certain suggestions. We have suggested countries which were our buyers during the past few years.

**Sri V. C. Vellingiri Gounder:** Then without knowing the demand from the several countries, how is it that quantities have been fixed for export by Government?

**The Honourable Mr. I. I. Chundrigar:** The quantities for export have been fixed by Government after taking into consideration what is likely to be the surplus in this country. There is an insatiable demand from numerous countries and the question will be to whom among the several competing countries to allocate the little quantity which is available.

**Babu Ram Narayan Singh:** Was any excess discovered after full one year's consumption of groundnuts in this country?

**The Honourable Mr. I. I. Chundrigar:** It is difficult to collect statistics as to how much oil is left with either the consumers or the dealers after one year's consumption but we have reported our estimated supplies to the International Emergency Food Council after taking into consideration our estimated requirements.

**Babu Ram Narayan Singh:** How did Government come to the conclusion that it was not necessary for food consumption in the country?

**The Honourable Mr. I. I. Chundrigar:** According to the statistics of our consumption in the past.

SHORT NOTICE QUESTION AND ANSWER

SELECTION OF A EUROPEAN (SIR ROBERT HUTCHINGS) AS LEADER OF INDIAN DELEGATION TO INTERNATIONAL WHEAT CONFERENCE

**Mr. Vadilal Lallubhai:** Will the Honourable the Commerce Member please state:

(a) whether it is a fact that an Indian Delegation is being sent out to London to participate in the International Wheat Conference;

(b) whether it is a fact that Sir Robert Hutchings is the Leader of the said Delegation;

(c) whether, while selecting the personnel of the Delegation, the Food Department was consulted;

(d) if the reply to part (b) above be in the affirmative, why a European was chosen to lead the Delegation representing this country for work in the international sphere; and

(e) whether Government could not find any competent and suitable Indian to lead the Delegation?

**The Honourable Mr. I. I. Chundrigar:** (a) The Indian Delegation to the International Wheat Conference which opened on the 18th March is already in London.

(b) and (c). Yes.

(d) and (e). As the proposals to be discussed at the Conference would have to be examined in the context of our requirements of food from abroad, it was essential that some one with intimate knowledge of the country's food position and having experience of importing foodgrains under existing conditions should lead the Indian Delegation.

**Mr. Vadilal Lallubhai:** May I know whether the Honourable Member considered any Indian for this purpose, and if so what are the names of those Indians who were considered?

**The Honourable Mr. I. I. Chundrigar:** No Indian with suitable knowledge and experience was found available.

**Mr. Vadilal Lallubhai:** Is he aware of the fact that at the Food and Agriculture Organisation of the U. N. O. Dr. Katju led the delegation and Sir S. V. Ramamurti was the other delegate? Did he consider any one of those two names?

**The Honourable Mr. I. I. Chundrigar:** These names were considered. They had not the qualifications which are necessary here. It must be understood that at this International Wheat Conference, commitments are likely to be made as to the purchases to be made in future and the extent to which India should commit itself to these purchases. Unless we have a person with full knowledge of the food position and our likely future production and likely future requirements from abroad, it would be difficult to enter into any agreement which would be to the benefit of India.

**Mr. Vadilal Lallubhai:** If at the International Food Conference Dr. Katju could lead the delegation and Sir S. P. Ramamurti, who was a member of the Famine Commission and knew all about the famine conditions in India, could be another member of the delegation, were they not considered fit to represent India at this Conference, and will he see to it that in future all Indians are sent as chief delegates to such international conferences?

**The Honourable Mr. I. I. Chundrigar:** Whenever possible, it is the desire and the policy of Government to appoint an Indian to lead the delegation. It was only in view of the peculiar conditions referred to by me that in this case a non-Indian was chosen.

**Prof. N. G. Ranga:** In view of the fact that all the three qualifications which the Honourable Member has mentioned are possessed by our own colleague, Diwan Chaman Lall, who was sent by the Government of India—not even this Government but the previous Government—to the Argentina to negotiate with that Government, and also by Mr. B. R. Sen, their own Joint Secretary in the Food Department, why is it that the Government of India has chosen this particular Englishman—Mr. Hutchings—for this particular responsibility?

**Mr. President:** I think the Honourable Member has not asked for any further information. He has expressed opinion and is entering into arguments. What is the information which the Honourable Member wants to ask?

**Prof. N. G. Ranga:** Excuse me. On a matter of personal explanation, I did not intend making an application on behalf of Diwan Chaman Lall . . . . .

**Mr. President:** That was never the implication.

**Sri R. Venkatasubba Reddiar:** When was it discovered that Dr. Katju and Ramamurti had not the necessary qualifications to lead this delegation?

**Mr. President:** He has answered that question. We are not arguing on the relative merits of people.

**Mr. Sasanka Sekhar Sanyal:** May I know from the Honourable Member whether there is no Indian officer who can take charge of the food situation in this country during the absence of Mr. Hutchings?

**The Honourable Mr. I. I. Chundrigar:** Well, that is for the Food Department to decide.

**Mr. Vadilal Lalubhai:** Was the Food Member asked to spare the services of Mr. Hutchings or was he consulted?

**The Honourable Mr. I. I. Chundrigar:** Both.

**Diwan Chaman Lall:** Isn't it a pure departmental matter? It is quite within its right to choose whom it wishes.

**Prof. N. G. Ranga:** Yes, but it can make mistakes also.

**Mr. President:** Order, order.

#### ELECTION TO STANDING FINANCE COMMITTEE FOR RAILWAYS

**The Honourable Dr. John Matthai** (Member for Railways and Transport): Sir, I beg to move:

“That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, eleven members to serve on the Standing Finance Committee for Railways for the year commencing 1st April, 1947.”

**Mr. President:** Motion moved:

“That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, eleven members to serve on the Standing Finance Committee for Railways for the year commencing 1st April, 1947.”

**Mr. Leslie Gwilt** (Bombay: European): Sir, I was given to understand in regard to this motion and others similar that the procedure this year was going to be that the *status quo* was going to be maintained on all Standing Advisory Committees in order to avoid the laborious process of election. May I ask whether that proposed procedure has been abandoned?

**Mr. President:** I have no knowledge about this suggestion which the Honourable Member has referred to.

**Mr. Leslie Gwilt:** The suggestion was made to me by the Government Whip. Possibly it was withdrawn later. But that was my understanding of the matter.

**Mr. President:** Whatever that be . . . .

**Shri Satya Narayan Sinha** (Darbhanga *cum* Saran: Non-Muhammadan): There was such a suggestion. But it was later discussed among ourselves and we did not agree to it.



**Mr. President:** The question is:

“That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, eleven members to serve on the Standing Finance Committee for Railways for the year commencing 1st April, 1947.”

The motion was adopted.

#### ELECTION TO STANDING COMMITTEE FOR THE DEPARTMENT OF TRANSPORT

**The Honourable Dr. John Matthai** (Member for Railways and Transport):  
Sir, I beg to move:

“That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, eight non-official members to serve on the Standing Committee to advise on subjects with which the Department of Transport is concerned, other than those within the purview of the Standing Committee for Roads, for the financial year 1947-48.”

**Mr. President:** The question is:

“That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, eight non-official members to serve on the Standing Committee to advise on subjects with which the Department of Transport is concerned, other than those within the purview of the Standing Committee for Roads, for the financial year 1947-48.”

The motion was adopted.

#### ELECTION TO STANDING COMMITTEE FOR ROADS

**The Honourable Dr. John Matthai** (Member for Railways and Transport):  
Sir, I beg to move:

“That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, eight members to serve on the Standing Committee for Roads, which will be constituted to advise the Governor General in Council in the administration of the Central Road Fund and such other questions relating to roads and road traffic as may be referred to it during the financial year 1947-48.”

**Mr. President:** The question is:

“That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, eight members to serve on the Standing Committee for Roads, which will be constituted to advise the Governor General in Council in the administration of the Central Road Fund and such other questions relating to roads and road traffic as may be referred to it during the financial year 1947-48.”

The motion was adopted.

**Mr. President:** I have to inform Honourable Members that the following dates have been fixed for receiving nominations and holding elections, if necessary, in connection with the following Committees, namely:

	Date for nomination	Date for election
1. Standing Finance Committee for Railways.	21st March 1947	24th March 1947.
2. Standing Committee for the Department of Transport.	21st March 1947	24th March 1947.
3. Standing Committee for Roads	21st March 1947	25th March 1947.

The nominations for all the three Committees will be received in the Notice Office upto 12 Noon on the dates mentioned for the purpose. The elections, which will be conducted in accordance with the Regulations for the holding of elections by means of the single transferable vote, will be held in the Assistant Secretary's room in the Council House, between the hours of 10-30 A.M. and 1 P.M.

REPORTS OF SELECT COMMITTEES ON—

(1) BUSINESS PROFITS TAX BILL.

(2) INCOME-TAX AND EXCESS PROFITS TAX (AMENDMENT) BILL.

(3) TAXATION ON INCOME (INVESTIGATION COMMISSION) BILL.

**The Honourable Mr. Liaquat Ali Khan** (Finance Member): Sir, I beg to present the Report of the Select Committee on the Bill to impose a special tax on a certain class of income.

With regard to the second motion, I hope to present the report during the course of the day before the Assembly adjourns and I hope you will permit me to do so.

With regard to the third motion, I move:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to provide for an investigation into matters relating to taxation on income be further extended up to Monday, 31st March 1947."

The Select Committee has been working morning and evening and they have succeeded in completing their report on two Bills, and I am sorry that they could not complete their report on the third Bill. I therefore hope that the House will agree to extend the time up to the 31st March.

**Mr. President:** The position is this: The report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922, and the Excess Profits Tax Act, 1940 will be presented by today. Motion moved:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to provide for an investigation into matters relating to taxation on income be further extended up to Monday, 31st March 1947."

**Shri Sri Prakasa** (Benares and Gorakhpur Divisions: Non-Muhammadian Rural): May I know when the Honourable Member expects to put into our hands the printed copy of the report that he has just presented to the House, and also whether the number of days that are necessary under the Standing Orders before the Bill can be taken up for consideration will be computed from the time that the printed report is in our hands or from the time it has been presented. Seven days as you know, Sir, have to elapse between the presentation of the report and the actual starting of the discussion on a Bill.

**Mr. President:** I am told that the printed copies may be available the day after to-morrow. The report will go to the press now and it will take some time.

**Prof. N. G. Ranga** (Guntur cum Nellore: Non-Muhammadian Rural): Then the discussion is to commence tomorrow?

**Mr. President:** I do not think so.

**The Honourable Mr. Liaquat Ali Khan:** The discussion on this Bill is not to commence to-morrow.

**Sir Cowasjee Jehangir** (Nominated: Non-Official): May I point out that the discussion on the Finance Bill is to take place the day after to-morrow.

**The Honourable Mr. Liaquat Ali Khan:** I hope so, because if we dispose of the other business, then we will take up the Finance Bill. It is down on the order paper.

**Shri Sri Prakasa:** Could the Honourable Member give an idea of the programme for the next week or fortnight so that we can make up our own plans?

**Sir Cowasjee Jehangir:** My point is that if the Finance Bill is on the order paper that does not mean that it can come on a certain time. It is for the Government to decide when the Finance Bill will come before the House. Even if it comes before the House on Friday, then according to the statement just made, the reports of the Select Committees will not be in the hands of Members

[Sir Cowasjee Jehangir.]

of this House when they start discussing the Finance Bill and the Select Committees' reports are fundamentally a part of the financial proposals of Government.

Sir, how is that point explained? We were just told that the printed report will be in our hands day after to-morrow. We were also told that there is a chance of the general discussion on the Finance Bill taking place day after to-morrow. It follows that we shall not have the report in our hands when the discussion starts. How is that to be explained?

**Mr. President:** Let us see what progress we are able to make with the business on hand. We shall consider the situation that may arise out of the difficulty pointed out by the Honourable Member, if and when the occasion arises.

**Sir Cowasjee Jehangir:** The general discussion on the Finance Bill should not start till the Select Committee Report is in the hands of the Honourable Members at least for 24 hours. I ask for your ruling on that point.

**Mr. President:** Such a ruling at this stage will be hypothetical. For ought we know it may be in the hands of Honourable Members for more than 12 hours . . . . .

**Sir Cowasjee Jehangir:** It should be for 24 hours.

**Mr. President:** I am aware of that particular point of view, and I will see that no difficulties are placed in the way of the Honourable Member, because of the want of the Select Committee's report and that sufficient time is given to him to read and digest the report of the Select Committee. I am sure the Government also do not desire to put any Honourable Member to difficulty on that point.

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*Ruling re. admissibility of a Minute of Dissent to the Report of Select Committee on Business Profits Tax Bill*

**Mr. Shavax A. Lal** (Government of India: Nominated Official): Sir, with reference to the report of the Select Committee on the Bill to impose a special tax on a certain class of income, I gather from the Secretary of the Assembly that Sardar Mangal Singh has sent in a minute of dissent. I submit, Sir, that the minute of dissent is clearly inadmissible, because the Standing Orders are explicit on the point. Standing Order 41 (5) says:

"If any member of a Select Committee desires to record a minute of dissent on any point, he must sign the report stating that he does so subject to his minute of dissent, and must at the same time hand in his minute."

The Honourable Member has not signed the Report at all, nor has he authorised the Chairman of the Select Committee to sign the report on his behalf. That being the position, I submit, Sir, that the minute of dissent of Sardar Mangal Singh cannot go on record.

**Shri Mohan Lal Saksena** (Lucknow Division: Non-Muhammadan Rural): Sir, may we know what is the minute of dissent of Sardar Mangal Singh? We do not know what it is but Mr. Shavax Lal got the information from the Secretary of the Assembly. I have not had the privilege of knowing it beforehand.

**Diwan Chaman Lal** (West Punjab: Non-Muhammadan): Sir, may I ask whether it is not the usual custom in this House that when an Honourable Member has not had the opportunity of signing the original report, he should be asked to sign it, instead of asking the Honourable Member not to present his minute of dissent or asking that it should not be recorded. The usual procedure is that if a member of the Select Committee has not signed the report of the Committee, it is the duty of the Department to see to it that the report is sent to him for signature. That has been the custom in this House since 1924.

**Haji Abdus Sattar Haji Ishaq Seth** (West Coast and Nilgiris: Muhammadan): Sir, the usual practice as I know and as the rules provide is that if an Honourable Member is not able to sign for proper reasons the Select Committee's Report, he authorises the Chairman of the Committee to sign it on his behalf. It is only then that his signature becomes effective. If he does not do that, he cannot sign it.

**Diwan Chaman Lall:** Sir, may I draw your attention to a precedent. The Report of the Roads Committee, of which I was a member, was presented to the House. I myself was not present in the House, I was away in Lahore. But I was sent the report, it may be by the department, asking me whether I would be prepared to sign the report and on receipt of my telegram, it was taken as authentic that my signature was on the report. A similar procedure could easily be followed by the Department, if the Department wants to follow it.

**Dr. Zia Uddin Ahmad** (United Provinces Southern Division: Muhammadan Rural): Sir, we discussed this question repeatedly in various select committees, and the conclusion we arrived at was this: That no person is entitled to present a note of dissent unless he has signed the original report. A man may be absent, but even then he is at liberty to sign the report. At the same time, I think it is courtesy for the department to ask the member whether he is willing to sign the report or not. If he refused to sign it, he is not allowed to submit a separate minute of dissent.

**Mr. President:** Did the Honourable Member ever approach Sardar Mangal Singh to sign the report?

**The Honourable Mr. Liaquat Ali Khan:** Sir, may I explain the position. Sardar Mangal Singh, unfortunately was not able to attend any meeting of the Select Committee and I understand that Sardar Mangal Singh is not even present in Delhi. Night before last the report was signed. Surely if Sardar Mangal Singh was so much interested in this matter that he sent his minute of dissent without knowing what the report was, he could have certainly authorised the Chairman also to sign the report for him.

**Shri Mohan Lal Saksena:** Sir, before you give your ruling, I may inform you that when we found that the department was not taking any steps to inform Sardar Mangal Singh, we sent a special messenger with the report as well as the Minute of Dissent to him and then I do not know what reply has been received. After all it is for him to inform us what he has written. I have not had any information.

**Mr. President:** I can only state my present reactions and even when I decide anything. I might say that the question will still remain open, because it will require a little further consideration. At present I am not concerned with the circumstances in which the signatures came to be taken or how the Department acted or did not act, that is a different matter. Now it appears that there have been in the past instances of practice which is in variation with the Rules and Standing Orders. For example, Standing Order 41 (5) says: "If any member of a Select Committee desires to record a minute of dissent on any point, he must sign the report." It is not clear as to whether he must record the minute of dissent at the same time as he signs the report, or he may do it at different times. The only point is that unless he has signed the report, he cannot sign a separate minute of dissent. But then the effect of all this seems to me to be this: that there should not be any occasion for anybody else sending anything in the name of the member present or absent, so that no opportunity or occasion should be given to a member to complain that a particular thing appearing in his name was not sent in by him. That seems to me to be the intention of these rules. It is nobody's case that the letters sent by Sardar Mangal Singh do not bear his own signature. Under what circumstances he has sent those letters is

[Mr. President.]

a different matter but the letters are very clear. Though I do not see any specific and express authority by name in these letters, surely a member who wishes to have his minute of dissent recorded, really desires to sign the report as required by the rules and standing orders. What the Honourable Member says is very clear:

"I regret I was unable to attend the meetings of the Select Committee owing to the trouble in the Punjab. I have read both the report of the Committee and the Minute of Dissent."

That, to my mind, is an important statement. He continues:

"and I agree with the views expressed by my colleagues in the dissenting minute."

The Honourable Member has seen the report of the Select Committee and if the rules require that he must sign it, it is only a technicality. In substance he is aware of the report. If he had merely stated about the minute of dissent, I would have found myself probably in difficulty as to whether he was aware of the report of the Select Committee. Here he distinctly says "I have read both the report of the Committee and the Minute of Dissent"—This is conclusive evidence of the fact that he was conversant with the report of the Select Committee. There is no particular charm in a signature; what is wanted is to fix him with the knowledge of the report of the Select Committee. On that, the evidence is quite clear. If we take it therefore that the report is signed by him, it would be a proper interpretation of the rules in the spirit in which they are made, whatever the technicalities may be. I do not think that we should stick to these technicalities. They are after all intended to observe some general principles. The moment the principles are observed we need not go any further than that. In the second letter he says 'I am herewith sending a note to be included in the Minute of Dissent on the Business Profits Tax Bill.' That is also signed by him. Here he says of inclusion in the report of the Select Committee. Therefore, when the Secretary asked me about this I asked him to include the signature because Sardar Mangal Singh's letter is very clear on that point and I would treat it not as signature in substance. He had knowledge of the Report and somebody had to include his name as signatory. The signature is also authorised according to previous rulings. A member may as well authorise the Secretary to sign it. Therefore, to my mind, this Report will be a proper one to go in.

**Mr. Muhammad Nauman** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): May I know if it is the ruling of the Chair that a member if he is absent in the Select Committee and had not been able to attend even one meeting of the Select Committee can put in his remarks on the Proceedings of the Select Committee only on having read the Report which has been given unofficially by a colleague of his?

**Mr. President:** I am not concerned how the Honourable Member came to know about the Report. If the rules do not prohibit, there can be no objection.

**Mr. Muhammad Nauman:** Are not the proceedings secret, Sir?

**Mr. President:** They are not secret in that sense. They should not be published before the Report is presented to this House. It is a different thing. But I do not see any reason why a member who is unable to be present at any of the meetings of the Select Committee should not be able or should be prevented from expressing his view. He can read what his colleagues have stated, agree with them and sign. There is no provision in the rules disqualifying a member of the Select Committee if he is not present at any of the meetings, from expressing his view or signing. In fact there are many previous precedents. Diwan Chaman Lall had signed like that though he was absent. My attention is also invited by the Office to a specific instance in March 1939. Mr. Asaf Ali was a member of the Select Committee on the Registration of Foreigners

Bill. Although he did not attend any meeting of the Select Committee he was keen to sign the Report. What is wanted is the views of the particular member, whether he came to conclusions of his own by his presence at the meetings of the Select Committee and *viva voce* discussion with the members or by having communication with the members. It makes no difference so long as his concurrence is there. As I stated at the beginning, so long as the signature is not disputed the question becomes one of form and not of substance.

**Shri Sri Prakasa:** Cannot the Honourable Member explain to us the reasons for this inordinate delay, and if there is any trouble in the Select Committee why cannot he withdraw the Bill and be done with it?

**Mr. President:** The Honourable Member will not refer to troubles or to what happened in the Select Committee.

**The Honourable Mr. Liaquat Ali Khan:** I have said, Sir, that the Select Committee has been meeting morning and evening. I thought the Committee had done very well by giving their Report on two Bills. And the third Bill has nothing to do with the financial proposals.

**Shri Sri Prakasa:** Sir, it is the worst of all.

**Mr. President:** The Honourable Member will have an opportunity to say about that when the Bill comes to the House. In any case, the consideration of the other two Bills is not dependent on the report of this Committee. That is the point. I put the motion to the House then.

The question is:

"That the time appointed for the presentation of the report of the Select Committee on the Bill to provide for an investigation into matters relating to taxation on income be further extended up to Monday, 31st March 1947."

The motion was adopted.

#### UNITED NATIONS (SECURITY COUNCIL) BILL

**The Honourable Pandit Jawaharlal Nehru** (Member for External Affairs and Commonwealth Relations): Sir, I beg to move for leave to introduce a Bill to enable effect to be given to certain provisions of the Charter of the United Nations.

**Mr. President:** The question is:

"That leave be granted to introduce a Bill to enable effect to be given to certain provisions of the Charter of the United Nations."

The motion was adopted.

**The Honourable Pandit Jawaharlal Nehru:** I beg to introduce the Bill.

#### UNITED NATIONS (PRIVILEGES AND IMMUNITIES) BILL

**The Honourable Pandit Jawaharlal Nehru** (Member of External Affairs and Commonwealth Relations); I beg to move for leave to introduce a Bill to give effect to the Convention on the Privileges and Immunities of the United Nations.

**Mr. President:** The question is:

"That leave be granted to introduce a Bill to give effect to the Convention on the Privileges and Immunities of the United Nations."

The motion was adopted.

**The Honourable Pandit Jawaharlal Nehru:** I beg to introduce the Bill.

#### IMPORTS AND EXPORTS (CONTROL) BILL—*contd.*

**Mr. President:** The House will now proceed with the further consideration of the Bill to continue for a limited period powers to prohibit or control imports and exports, as reported by the Select Committee.

**Mr. M. A. F. Hirtzel** (Bengal: European): Mr. President, Sir, when the House adjourned yesterday I was speaking in support of the amendment to sub-clause (1) of Clause 3 of the Bill moved by Mr. Lawson. I would like to explain to the House what the proposal was. The amendment moved by Mr. Lawson recommends to the consideration of the House the following proviso to sub-clause (1) of Clause 3 of the Bill:

"Provided that the operation of a restriction on imports shall be limited to a period of six months where such restriction is made for no other purpose than the protection of indigenous industry."

Sir, certain speeches were made yesterday in which it was suggested that in moving this amendment we were actuated by certain selfish motives. I would like in repudiating that suggestion to quote from the actual record of the remarks made by the Honourable Mover when he was moving his amendment. He said in particular:

"I acknowledge the Commerce Member's right to protect the industry of the country and if it is necessary he may indeed have to produce a temporary prohibition to protect the industry; I acknowledge his right to do that."

The Honourable Member who is now just leaving the House then proceeded to attack us in vitriolic terms saying that we were adopting a selfish attitude. I think Honourable Members of the House will agree that that charge cannot possibly be sustained.

Mr. Lawson also said that the correct method of protecting indigenous industry is by tariff enquiry—a point which we have very frequently made from this side of the House. Mr. Lawson asked the Commerce Member to reply to a specific question on this particular point namely, "Does he or does he not agree that the proper protection of indigenous industry is by duty tariff?" Well, Sir, I do not think that the charges which Mr. Manu Subedar made against us can possibly be sustained either by our record in general or by the particular record on this particular occasion. Then Sir Cawasjee Jehangir also addressed the House and, as I pointed out he really supported our case in that he said and argued that there was no possibility of these powers being used for protective purposes.

**Sir Cawasjee Jehangir** (Nominated: Non-official): I did not say that. What I said was that it was not the usual practice that these powers should be used for that purpose but in the special circumstances of the post-war years these powers might be used in the interests of the country in exceptional cases.

**Mr. M. A. F. Hirtzel**: I accept that. I would point out that the amendment that we are commending to the consideration of the House fully covers any exceptional cases. I think it is most unfortunate that the Mover of this amendment should have been misrepresented in the manner in which he has been misrepresented. Mr. Subedar also went on to attack us on the subject of certain remarks which I made in the House when we were debating the Cut-Motion on the P. and T. Department. He accused me of having expressed the opinion that it will not be wise for this country to undertake the manufacture of certain equipment and he said that he had noted my remarks very carefully. My remarks are indeed noted more carefully in the records of the House and the records of the House say this:

"We ourselves support the view expressed in the post-war plan that it would not be an economic proposition to try to manufacture equipment in this country for the automatic telephone system."

I followed up that statement by recommending to the P. and T. Department that they should consider manufacturing in this country air-conditioning plant, which unlike automatic telephone equipment, could rely on an extensive internal market. Mr. Subedar, in supporting his plea for the manufacture of automatic telephone equipment in this country, supported it on the ground that it was necessary for strategic reasons. I was arguing in this particular case on economic grounds purely and we on this

side of the House shall be perfectly prepared to accept the strategic argument if Mr. Subedar is prepared to apply it with equal force in the case of strategic railways and roads, in the case of the Defence Budget and in the case of the general moral support which he gives—or ought to give—to the Defence Services. If he is prepared to be logical in this matter, then we would fully support the argument that this equipment must be manufactured for strategic reasons.

Unfortunately my friend has chosen to absent himself from the House now and he does not wish to answer the charges made against him. My friend is the first to cry out on precisely the economic grounds which I am urging, when it comes to a question of strategic railways, strategic roads, the Defence Budget and moral support to the Defence Forces.

Well, Sir, as a matter of fact in the case of the P. and T. Department I did have a motive in supporting the views of Government on this question. What I wanted to emphasize was that the particular equipment in question is of such a highly technical and complicated nature, that it would require an enormous amount of continuous and intensive research to manufacture it satisfactorily in this country, if it is to keep abreast of the times, and I felt, and we on this side of the House felt that it was highly undesirable to impose on us in the future an equipment which was not of the highest standard and that that will react on the general utility of the services which the P. and T. Department were able to render to the country as a whole. I submit that in this matter the consumers' interest is also a matter of the utmost importance.

To come to the particular issue of this amendment, I would like to make a few general observations. I submit that our case for this amendment is both a rational case and also a case which is definitely in the interest of this country and I wish to support that by certain particular arguments. Mr. Subedar tried to impress on the House the dangers of particular types of goods being dumped into this country to the disadvantage of local industry. You can take particular manufactured products, complete articles and say that they can be dumped. Our amendment fully covers that. You have a period of six months. What I would like to draw the attention of the House to is this. These powers are not only to be exercised to control the completed product. They will also control such items as spare parts, replacements and, in particular, tools. I want to deal with that particularly, because it is a very good case to bring to the notice of the House. I should think it is unlikely that many members of this House have tried to buy tools in Delhi but I personally have had occasion to do so. I have tried to get in the bazars things like spanners. They look all right but when you come to use them you find they are made of margarine and are useless. What is the reason for that, Sir? The reason for that is that high grade tool steel is not at present manufactured in this country. Steps are, I know, being taken in that direction. But to take that particular case, I would like to ask the Commerce Member when he thinks that those steps are going to materialise in an adequate supply of tools in this country. Now, Sir, there is a tool famine in this country today and the number of spanners, wrenches and simple instruments of that kind which are required to equip all the *mistris* and work shops in the country must amount to many hundreds of thousands. Assume for the sake of argument that these hundreds of thousands of tools are obtainable by import today and suppose they are imported. The first thing that will arise is that the local manufacturers will telegraph to the Commerce Member saying that tens of thousands of spanners are being imported into the country and that he must impose restriction. The Commerce Member will say "By Jove, we have to be careful about this. We must impose a restriction". What is going to be the result of that? The result is going to be that under the guise or under the claim that you are supporting Indian production you are doing exactly the reverse. You are making it impossible for any man, who likes to do a job thoroughly, to do so, Honourable Members of the House may not appreciate



[Mr. M. A. F. Hirtzel]

that the best workman likes the best tools and if you deny him those tools, you are simply going to impair his capacity to carry out his job well. You are encouraging slovenly work and you are going to discourage the workman who has a pride in his job. I merely quote that as a case because I think it is a case and a very good case. I am quite sure hundreds of similar cases can be quoted. Now, the reason why we say that there should be a rational and scientific inquiry before a prohibition is imposed is exactly this that the Tariff Board will go into all these details. Now, Sir, we submit that the Commerce Department is not qualified to do that. It is complete news to us and it has caused us great surprise, that Mr. Manu Subedar should get up and say that they have been exercising their powers in a blameless manner. The experience of trade, commerce and industry in the country, which has been frequently ventilated on the floor of this House, is entirely to the contrary? We have been repeatedly complaining about the serious delays in issuing import and export licences. I need not go into that matter. It is a matter of ancient history and it is still a cause of complaint and further it is still a cause of complaint on the floor of this House. Then, Sir, my second charge is that there is a lack of helpfulness. You send in your application for an import licence and you are merely informed that you cannot have it because the item is manufactured locally. After a great deal of trouble you may receive some advice as to who professes to manufacture it locally. Then, we are put to a great deal of further trouble in ascertaining for ourselves that the local product is unsatisfactory. The position would be entirely different if there were some high grade technical advice which was available to industrialists or to importers in the Commerce Department as to how, in fact, they can fulfil their requirements at a reasonable standard of efficiency. But that is entirely lacking and the need will not be fulfilled until the Indian Standards Institute has been set up and is really working and has acquired a fund of the requisite knowledge. But that is going to be a matter of many years. We cannot have any serious and concrete results from that Institute particularly not as it is proposed to be constituted, for a matter. I should think, of at least ten years. In the mean time, we are left to the rough-and-ready methods—if they can be called methods,—of the Commerce Department. It is simply a refusal to issue licences and then they leave the applicant to his own devices. We think that that is a very unsatisfactory position. The needs of the importer should be fully examined and inquired into and his needs could really be provided for in a scientific and satisfactory manner if there were a Tariff Board inquiry. The Tariff Board inquiry, as the House knows, makes it possible for the public to represent their views and their needs to the Board. The powers that are proposed to be given under this Bill do not give any such scope at all to the public. I can go and say that my needs are such and such, but I say this to an official who has not the faintest technical knowledge or the slightest comprehension of what my needs are and he will merely say: This is an interested party and why should I help him? That is a situation which reacts precisely on the particular interests that my Honourable friend Mr. Manu Subedar was professing to defend when he supported the Commerce Member in throwing out this amendment. That is to say, it reacts immediately on the needs of Indian industrialists. That is the reason why we are putting up this amendment before the House.

Now, the third point that I wish to commend to this House is the interest of the consumers. If it is proposed to take measures which are going to redound to the disadvantage of Indian industry, that will be reflected both in the inefficiency of the product and also in its high price. The price of any product is directly related to the quality which is obtainable. If, for instance, the spanners that I can buy in the Bazaar last me only for a day, then I have got to get 365 in the year and at 2 annas each they will cost me a great deal more than what I pay to buy one of high quality that can last me for five years. Therefore.

this measure will redound directly to the disadvantage of the consumer also. It may be noted that the recent economic discussions in this House, in my opinion, have to a large extent missed the main point. The point is not the actual level of costs but the standard of living. It will be obvious to every one in the House that a man who is earning Rs. 200 a month today has a lower standard of living if, for instance, a bicycle costs him Rs. 250 than he had in 1939 when he was earning Rs. 80 a month and a bicycle cost him Rs. 40 only. That is perfectly obvious, and, if costs are pushed up in this way, then that will work to the disadvantage of the consumer and will steadily depress the standard of living.

Well, Sir, I do not wish to take the time of the House any longer, but I trust I have said enough to show that our action in moving this amendment is not based on any selfish or anti-national designs. It is purely because we are seeking a scientific and rational approach to this problem. For this reason, we say in our amendment that, if an emergency arises, the Commerce Member can propose a prohibition for six months. That will give him the safeguard he wants. But, in the meantime, let there be a scientific and rational inquiry into the real needs of the situation with a view to finding a long term and real remedy, which is not a mere negative prohibition. Now, Sir, may I ask why Honourable Members such as Mr. Manu Subedar have shown such a zeal in opposing this rational and scientific inquiry? The findings of the Tariff Board would almost certainly result in revenue to the State and it is revenue which we seriously need. It has been argued there will be delay in completing the enquiries. There is no reason why, if the enquiry continues for more than six months, prohibition should not be imposed for a further period of six months. Why is there this opposition to a proposal which will bring in revenues to the State? It would either be the prohibition which Government seeks in the Bill or it would be a source of revenue to the State. Why then is there objection to this revenue-earning course? One can only suppose that there must be money in it somewhere for someone. I certainly do not want to impute particular motives to any particular individual. But it appears to stand to reason that when what is offered is a perfectly good and scientific and long term settlement of the particular point and that is the objective, while it would also bring revenue to the State, there must be some revenue to some one somehow when it is opposed. I do not wish to press that point. But I do wish to repeat again what I said before. If these powers are not safeguarded in the manner we suggest, we consider that there is a serious danger of their re-acting to the disadvantage of the interests which the Honourable the Commerce Member claims to protect and in loss of revenue to the State as well. With these words, I support the amendment.

**The Honourable Mr. I. I. Chundrigar** (Commerce Member): Sir, some unnecessary heat has been introduced in the discussion of this amendment and I think we had better concentrated on what is actually the scope of the amendment and how it will work in practice. The Honourable Member Mr. Hirtzel rightly pointed out that when this amendment was introduced by Mr. Lawson, he from the beginning acknowledged that India had the right to protect the industries of the country. Even his amendment itself recognises that right to a certain extent, as he himself wants to provide that "provided that the operation of restriction on import shall be limited to a period of six months where such restriction is made for no other purpose than the protection of indigenous industry". Now, what I would ask is this: If powers under this Bill can be used for the purpose of protecting the indigenous industries for six months, how will the position be altered in the seventh month? Why should the period be limited to six months? The reply probably may be that six months would give ample time for a thorough enquiry by the Tariff Board and thereafter action can be taken according to the recommendations of the

[Mr. I. I. Chundrigar.]

Tariff Board. To that my reply is twofold. Firstly, so many new industries have sprung up in the country during the war that we have a very large number of applications for protection from various industries. It is physically impossible for the Tariff Board to complete an enquiry into every one of these applications within a period of six months. The enquiry in the case of certain industries is bound to take more than six months. Secondly, if the right of Government to use Import control to protect industries pending enquiry by the Tariff Board for six months is recognised, there can be no serious objection to the Tariff Board ultimately coming to the conclusion that Import control may be used for the purpose of protecting a particular industry which could not otherwise be protected. Assuming that the Tariff Board made a report recommending import control, I do not see any objection to the use of the Import control for the protection of an indigenous industry. These are the grounds on which I oppose the amendment. However, regarding the principle involved, I agree with the Mover of this amendment that import control should not normally be used for the purpose of protection, but there may be special cases of certain industries where it may be necessary to use Import control for that purpose and it would be impossible for Government to accept an amendment which would limit their right to use import control only in cases other than those of protection.

Then there is another aspect of the problem and it is this. When Government pass an order restricting, prohibiting or controlling imports, Government would not be expected to mention the grounds on which that order is made. The order would generally be made after consideration of several factors taken together. If an amendment of this nature is accepted, then Government would be bound to mention in every order restricting imports the grounds on which that order is passed. That would be very difficult for Government to do, because at a time when it is possible for India to make only limited purchases from abroad, the question will be not merely the question of protecting the indigenous industries, but also of how best to utilise the exchange available for making these purchases abroad in the interests of the country as a whole. It may be that Government will have to consider a situation like this: Article 'A' is manufactured in sufficient quantities in the country and Article 'B' is not. Therefore let us rather use the exchange available for importing Article 'B' which is not produced here and our exchange will be better utilised for the purpose of importing article 'B', and so on. Several aspects of the problem will have to be considered simultaneously and it is only after the cumulative effect of the various points involved is taken into consideration that an order would be finally passed. So, I am not in a position to accept this amendment, both on the ground of the time limit of six months as well as on the ground that it would be impossible in practice to say whether the order for restricting imports is passed only for the purpose of the protection of indigenous industries. I have already stated that Government would be reluctant to use this method of protection if other methods are found satisfactory. One more factor also should be considered. It has been brought to the notice of Government that in some countries the internal prices are higher than their export prices, with the result that a lower export price places the industry in that country at an advantage over the indigenous industry. Where export prices of any country are lower than their internal prices, it becomes a case of dumping, when the only satisfactory way of dealing with it would be by controlling the imports. Therefore, Government will take all these factors into consideration before reaching their final conclusion. Mr Hirtzel mentioned that there may be certain articles like high grade steel, tools, and others where quality counts. Even though the foreign article may be dearer than the inferior article manufactured in the country, it may be a case for allowing imports. Now, Sir, though it is difficult to lay

down a hard and fast rule on the subject, Government will fully consider this question, when laying down its policy especially in case of articles which are used by factories here, and the efficiency of factories depends on the quality of tools and other things. Such tools required by the factories for efficient working are generally allowed to be imported, if quality tools are not manufactured in this country. Therefore in each case, Government will have to consider various aspects of the problem and reach a decision. In view of these considerations it is not possible for me to accept the amendment.

**Mr. President:** The question is:

"That to sub-clause (1) of clause 3 of the Bill, the following Proviso be added, namely:

'Provided that the operation of a restriction on imports shall be limited to a period of six months where such restriction is made for no other purpose than the protection of indigenous industry.'

The motion was negatived.

**Mr. Vadilal Lallubhai** (Ahmedabad Millowners Association: Indian Commerce): Sir, on clause 3 I have given notice of four amendments, but if I am allowed to move the amendment of which I gave notice this morning I shall not move any of those four.

**Mr. President:** It has not been possible to circulate to Members the amendment which was sent in this morning, but it seems to be substantially the same though in a different form. The amendment runs thus:—

"That to sub-clause (1) of clause 3 of the Bill, the following Proviso be added, namely:

'Provided that any person adversely affected by any order made under sub-clause (1) may appeal against the same to a tribunal consisting of three persons including the Chairman who shall be a High Court Judge.'

What the Honourable Member called an independent body in the earlier amendments, he calls here a "tribunal". There, he described the qualifications of persons to be appointed to that independent body; here he does not say anything except that the Chairman shall be a High Court Judge. In the alternative amendment, he suggests a sort of Arbitration Board consisting of three arbitrators. So practically the new amendment covers the same ground in substance,—i.e., reference to an outside body in regard to orders passed. The amendment is different regarding the constitution of that outside Body. So there is no objection; he may move this amendment.

**Mr. C. P. Lawson** (Bengal: European): Sir, may I seek your guidance on this point? There can be no objection to this amendment because, as you say, it is covered by the previous amendments. But it refers to a tribunal which is not in existence. Is it in order for an amendment to be moved affecting a body which does not exist?

**Mr. President:** That will take me into the merits of the scheme, and I should not go into the merits of the proposal. I should decide only on the admissibility. The Honourable Member's difficulty may be valid because the Bill deals nowhere with the constitution of a tribunal, its powers, etc.

**Mr. Vadilal Lallubhai:** I am prepared to modify the amendment if permitted. My object is to see if corruption can be removed or reduced. If the Honourable Member can suggest some other method with that same purpose I shall be satisfied.

**Mr. President:** The Honourable Member may insert words like these: "a Tribunal to be set up by Government with such powers or jurisdiction as Government may deem fit to prescribe by rules, but it shall consist of three members including the Chairman who shall be a High Court Judge".

Something like this may be added so that the amendment may be self-contained. I do not know the mind of Government but if the Honourable Member can come to an agreement on the principle, the wording of this....

**The Honourable Mr. I. I. Chundrigar:** No, Sir, it is not acceptable.

**Mr. President:** Then the Honourable Member may move it as he likes.

**Mr. Vadilal Lallubhai:** Sir, I move:

“That to sub-clause (1) of clause 3 of the Bill, the following Proviso be added, namely :

‘Provided that any person adversely affected by any order made under sub-clause (1) may appeal against the same to a Tribunal to be set up hereafter by Govt. consisting of three persons including the Chairman who shall be a High Court Judge.’”

‘My principal object is to see that corruption which is so rampant in the various departments and in the whole country may be reduced to some extent. If my Honourable friends can suggest any other method to achieve the same purpose I shall be quite happy. Due to war conditions, as we all know, corruption has entered the body of the whole nation. We should make efforts to see that it is reduced as much as possible; and if we can suggest a method for this particular department now we can follow it up with other departments later on, so that corruption may be removed. The constitution of a tribunal as I suggest will itself reduce corruption by 50 per cent. because the officials will feel that there is a check over them and it would not be worth while to carry on as they have been doing. They will be careful in all that they do either knowingly or unwillingly and will see that proper justice is done. It may be said that this method will be very complicated, and there will be hundreds and thousands of cases going up to the Tribunal. In this connection I would like to say that I am prepared to further amend my amendment and say that instead of the words ‘any person’ we may substitute ‘any interest’ so that the Association on behalf of their members may go to the tribunal and its work may be reduced to a very great extent. My Honourable friend, Mr. Manu Subedar, suggested yesterday that there may be some kind of an advisory committee or a council which should go deep into all these cases and settle the matter. I have no objection to that. My main idea is to remove corruption and to do justice to the parties concerned. If justice has to be done, I feel it is the duty of this Government and this House to try and evolve a kind of machinery which would satisfy this object. I do not think we in this House are so bankrupt as to feel that we are helpless in the matter and we cannot evolve a machinery which would satisfy the just claims of the people concerned, and which would remove corruption, or at least reduce it to the minimum. I think this House ought to be able to find out ways and means to achieve that object and yet simplify the method. Sir, I think that a tribunal or some kind of a committee, composed of people of high-standing in the public life of this country, should go deep into all these complaints once or twice a month and settle them in the right spirit and in the right manner. And I do not think it is difficult to form such a committee, or a body. I do not see why the Government should object to such a check on the doings of the various departments. We have heard enough of the doings of the military side of the Department of Disposals and other departments. We hear day in and day out.....

**Mr. President:** I do not think the Honourable Member need now discuss the general question of corruption. He has already discussed that point at length.

**Mr. Vadilal Lallubhai:** I would therefore urge the House to accept my amendment, or to suggest some sort of an amendment to my amendment which would serve the purpose. I would be prepared to accept any amendment which would satisfy the demands of the situation so that proper justice

is done to the parties concerned, and we may be able to weed out the corruption or in any case reduce it to the minimum.

**Mr. President:** Amendment moved:

“That to sub-clause (1) of clause 3 of the Bill, the following Proviso be added, namely :

‘Provided that any person adversely affected by any order made under sub-clause (1) may appeal against the same to a tribunal to be set up hereafter by Government consisting of three persons including the Chairman who shall be a High Court Judge.’”

**Shri Sri Prakasa** (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): The Honourable the Commerce Member in the course of his observations in reply to what I had said while an earlier amendment was being discussed, was pleased to state that a certain matter to which I had referred did not concern his department but the department of Industries and Civil Supplies. I was really referring to a time when Industries and Commerce were under a common Member of Government. He also said that as regards the other example I gave, a Provincial Government was concerned. All that is taking a too legalistic view of things, and shunting me off from one Government to another or from one department to another. The fact remains that certain unwarranted and improper monopolies have been created; and all that my Honourable friend, Mr. Vadilal, myself and others in the House are interested in, is just this that these monopolies should be broken, that certain individuals should not have all the trade in certain commodities in their own hands under the guarantee, so to say, of the Government of India. There ought to be a certain amount of free competition in order that prices may be stabilized, in order also that other persons could join the trade and in order that the consumers may have the best materials at the cheapest possible rate. That is why we want to abolish all monopolies. Any attempt on the part of Government to have controls of this nature inevitably results in the creation of certain monopolies; and very often persons who know the work are shut out and persons who do not know the work but have for some reason or other won the favour of officers of Government, get into that trade both to the detriment of the trade and the destruction of public morals, resulting in inconvenience to the public at large.

I am not at all interested in the formula that may be adopted. Surely the Government of India with its large staff of law officers, are more competent than any one of us, non-official Members of this House, in the matter of the drafting of proper laws. I am, Sir, therefore not interested in the formula, but I am interested in the principle that Mr. Vadilal is propounding and which I am supporting. I feel that it is up to the Commerce Member and his advisers to find a set of words that would give us the definite assurance and that assurance should be embodied in law so that there would be no monopolies, no favouritism, and that the trade will be allowed to run into proper channels, the public will not be inconvenienced, and no one will be deliberately put out of a sphere of activity to which he is entitled and for which he is fit. That is all our purpose, and I do wish that the Honourable the Commerce Member in his reply will please give us some sort of an assurance so that we may feel that the wrongs of the past will not be repeated, that no monopolies will be created and that we should have all that we require, in the right and proper manner.

**The Honourable Mr. I. I. Chundrigar:** The Honourable Member Mr. Vadilal Lallubhai has moved his amendment on the ground that corruption exists on a large scale, and that his amendment will prevent it. I must say that these remarks about general corruption are extremely exaggerated and whatever may have been the position in the past I have been telling all Members who approached me that if they come across any case of corruption, and report it to me, I am prepared to make enquiries in the matter and see that the person concerned is adequately punished.

[Mr. I. I. Chundrigar.]

So far as this amendment is concerned, I want the members to realize the difficulties likely to be caused in its administration. There may be one hundred items on the import side and fifty items on the export side, and for each item, there may be nearly twenty to thirty destinations and for each destination, the number of applicants may be somewhere about 500, and sometimes in some remunerative destinations the number may run into thousands. If

1 P.M. all dissatisfied applicants were to be referred to a tribunal of three persons, one of whom may be High Court Judge, by the time the Tribunal finish their enquiries into all these applications, the year will have run out and our import trade entirely dislocated. These are difficulties, nay insuperable difficulties, in accepting an amendment of this type, and I for one fail to understand how the appointment of a Committee of three, of which one is a High Court Judge, can in any case be described to be such a check on corruption, and how highly placed officers in the department who have experience of this kind of work cannot be deputed to deal justly with these cases. I have mentioned that whenever any serious complaints have been brought to my notice, even in cases which were decided years ago, I have got the cases re-examined to find out whether an injustice has been done to a particular individual or not. If any cases are brought to the notice of Government, they will ask a competent officer to make fresh enquiries into the matter and set it right if some injustice is found to have been done to anybody. That has been the policy of Government and that will be the policy of Government. Mr. Vadilal Lallubhai knows that when he brought some matters to the notice of the Department, an enquiry was made. Therefore, I submit that these allegations about corruption and similar things are mentioned just to find out some way of changing the present method. But I find that the only way to administer the control effectively is by the method which the Department now adopts and if any machinery of the type suggested were set up, the whole export and import trade would be dislocated. Therefore, I am not in a position to accept this amendment.

**Mr. President:** There is no right of reply.

**Mr. Vadilal Lallubhai:** I thank the Honourable Member for his assurance but I am not satisfied with the reasons given by him. However, not to embarrass him, if he will not accept this amendment, I would not like to press it.

**Mr. President:** Does he wish to withdraw his amendment?

**Mr. Vadilal Lallubhai:** Not to create any embarrassment to him.

**Mr. President:** I am not concerned with the motives of the Honourable Member. Does the Honourable Member wish to have the leave of the House to withdraw?

The amendment was by leave of the Assembly withdrawn.

**Mr. President:** Then all the other amendments of the Honourable Member fall through. There is one more amendment by Mr. Lawson. I have not been able to follow the amendment. Is it consequential to the first amendment?

**Mr. C. P. Lawson:** No, Sir. Sir, I move:

"That in sub-clause (2) of clause 3 of the Bill, all the words occurring after the word 'accordingly' be omitted."

I shall be as brief as possible in explaining to the House the effect of this amendment. Sub-clause 2 of clause 3 enhances the penalties created in section 183 of the Sea Customs Act. That particular section of the Sea Customs Act permits the customs authorities to impose a fine or confiscation of the

goods if the provisions of the Sea Customs Act are transgressed. If a shipper fails to produce his shipping documents: if he is trying to avoid the payment of sea customs duties and so on; then this clause of the Sea Customs Act can operate, and the sea customs authorities can impose a fine or confiscate the goods but the option of accepting the fine or submitting to confiscation of the goods lies with the importer. Now, Sir, the effect of the clause in this Bill is to remove that option and in fact the sea customs authorities can say under this Bill, "We will either take your goods, we will confiscate them, or we will impose a fine of any size and you will have to accept what we provide." In other words, the option is removed from the Importer and is placed on the side of the sea customs authorities. This provision was made, I believe, in 1941, when presumably the intention was that as very valuable shipping space which was needed so badly for the war might be used improperly, it should be within the summary powers of customs officials to impose extra penalties on the importer.

Now, Sir, I would like to point out.....

**Shri Sri Prakasa:** Will you please read out this section that is referred to here?

**Mr. C. P. Lawson:** I have not the section with me. It says just what I have explained to the House. The point so far as I am concerned is this; that Section 183 of the Sea Customs Act to which I refer limits the mischief that the importer can suffer to the confiscation of the goods. I hope that will be understood by the House. If he has the option, he cannot suffer any worse penalty than the confiscation of the value of the goods, because in that case he will opt to have the goods confiscated. That is a very heavy penalty. The importer will have paid for the goods and he will have involved himself in all the landing charges and his losses will be considerable. But, Sir, and this is the big point that I wish to put to you: if an importer transgresses the provisions of this Bill, he is still liable to the penal clause in the Bill, and not only can he incur a judicial fine without limit, but he can also be imprisoned under this Bill. So in those circumstances, Sir, what possible risk can there be for increasing the mischief of the Sea Customs Act in respect of the importer? It seems to me to be a most unnecessary extra burden placed upon the importer in normal times of peace: or if you like, in abnormal times of peace. But why should this extra burden be imposed? I would like to point out, Sir, that this option which we are giving under this Bill to the sea customs authorities to fine the importer or to confiscate his goods is a power given to a non-judicial officer. I suggest that this may be interpreted differently. A sea customs officer in one port may impose one kind of fine and an officer in another port may impose a different kind of fine. I do not want to raise the perpetual point of corruption. But it is not wise to increase the penal powers that officials have in connection with these imports.

Another point that I must put to you is this. Nowadays, import and export commerce is so complicated that there is scope for a perfectly genuine mistake. There is even, Sir, scope for a transgression of the clauses of this Bill which will not be the fault of the importer at all but fault of the authorities, and I have brought to the notice of the Commerce Member such a situation, a situation in which an importer has brought in to this country goods which the Customs authorities held to be goods for which an import licence is necessary. On the other hand, the Chief Controller of Imports had informed the importer that this particular type of goods was on the open general licence list and a licence was not necessary. Due to that conflict of opinion I have instances of goods being imported without a licence. The Customs authorities say that these goods should have a licence and therefore



[Mr. C. P. Lawson.]

the importer will be fined and that fine has been imposed. Admittedly, then, the importer can appeal to the Board of Revenue and if he does I am quite certain that in these circumstances the ward would be reversed. But I suggest that that is all the more reason for limiting the penal powers of the Customs authorities. If you do not keep these powers down to a reasonably low scale—I do not call the confiscation of goods a low scale, it is a very severe penalty and that penalty still lies with the Customs authorities—and if under this Bill you wish even to increase that power on the part of a non-judicial officer, surely that must be wrong. There cannot be a reason for it. I know that on these occasions the Commerce Member almost invariably throws at me the old canon ball “Can you produce evidence to show that the power has been misused?” In this particular instance I can, and here I cannot allow him to call it bluff.....

**The Honourable Mr. I. I. Chundrigar:** Was not the matter set right?

**Mr. C. P. Lawson:** Certainly, Sir. That is just my point. It was set right after an award had been made, after a fine had been collected, which was in no way justified, a fine which could only have been levied if powers were given to a non-judicial officer, who used those powers incorrectly. So I think the interruption of the Honourable the Commerce Member, which I welcome, gives me the very ground I require for suggesting that this power must be limited. Sir, I will not delay the House any more but I commend this amendment to the acceptance of the Government and the House.

**Mr. President:** Amendment moved:

“That in sub-clause (2) of clause 3 of the Bill, all the words occurring after the word ‘accordingly’ be omitted.”

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

The Assembly reassembled after Lunch at Half Past Two of the Clock Mr. President (The Honourable Mr. G. V. Mavalankar) in the Chair.

**Shri Sri Prakasa:** Mr. President, Sir, I must confess I have a great deal of sympathy with the amendment that has been moved by my Honourable friend Mr. Lawson. I regret that though his features were visible, his voice was inaudible to me at this place. I thus lost the benefit of his arguments. But reading the law as it stands and as it would stand if his amendment were accepted I think there is a great deal to be said in his favour. Sir, the relevant clause of the Bill reads as follows:

“All goods to which any order under sub-section (1) applies shall be deemed to be goods of which the import or export has been prohibited or restricted under section 19 of the Sea Customs Act, 1878, and all the provisions of that Act shall have effect accordingly, except that section 183 thereof shall have effect as if for the word ‘shall’ therein the word ‘may’ were substituted.”

My friend Mr. Lawson seeks to delete the words:

“except that section 183 thereof shall have effect as if for the word ‘shall’ therein the word ‘may’ were substituted.”

Sir, ‘shall’ is a tricky word. I seem to remember that long ago in my grammar I was taught that “‘shall’ in the first person and ‘will’ in the second and third stands for simple futurity” while “‘will’ in first and ‘shall’ in the second and third person denotes the determination of the speaker”. It is said that a gentleman falling into a well cried out: ‘I will die, no one shall save me’; and the person on the top who really wanted to save him was thus prohibited from doing so.

So far as I am able to understand the law—and I am not very learned either in law or the English language—I find that according to Section 183 of the Sea Customs Act, whenever an official seized some goods and was authorised by the law to confiscate them, he was bound to give the owner of the goods the option of paying a fine instead, for the law says: ‘the office adjudging it shall give the

owner of the goods an option to pay in lieu of confiscation such fine as the officer thinks fit.' According to the proposal of the Honourable the Commerce Member, the word 'shall' is to be substituted by the word 'may' so that the authority concerned will have the right to give or not give the option to the owner of the goods to pay a fine. The officer may like to confiscate the goods and so he will order that the goods be confiscated. The owner will have no choice. I think that will be hard. If the owner of the goods wants that he should be levied a fine and that the goods may be salvaged I think he should be given the option. If the old law which is being followed permitted that option, I see no reason why this new law which is only extending the operations of the old law, should go a step further and prohibit this option. I do think, Sir, that the Honourable the Commerce Member will see the justice of the claim put forward by my Honourable friend Mr. Lawson and accept his amendment.

**The Honourable Mr. I. I. Chundrigar:** Sir, I am sorry I am not in a position to accept this amendment. I will explain the reasons why. No doubt, under the Sea Customs Act, 1878 which dealt with normal times, the officer adjudging the case was bound to give an option to an importer who imported goods without permission or who had committed any offence under the Indian Sea Customs Act either to agree to the confiscation of goods or to pay a fine which may be adjudged by the officer. But when the Defence of India Rules were framed to meet the situation arising during the war, the change which is now proposed to be made by this Bill was effected. Under the Defence of India Rules as well as under the Emergency Powers Continuance Ordinance, the position is that the officer adjudging the case is the final judge on this point, subject of course to the right of appeal provided under the Indian Sea Customs Act. As I explained during the general discussion yesterday the point in a nutshell is this: Suppose some particular person flagrantly defies an order issued by Government and he says 'I am prepared to pay any penalty or fine, but I want to bring these goods in the country'. The question is whether Government should have the power of not allowing those goods to enter the country. I may give an illustration. Take the abnormal case of South Africa. The Government of India have applied sanctions against South Africa. Some South African goods come here in the port. Is it the intention of the House that the importer should only be penalised by payment of a fine or prosecution but should have the right to insist that the goods shall enter the country and shall be distributed in the country in spite of the orders of Government. Therefore instances may occur where it may be necessary to prevent import under any circumstances.

**Mr. C. P. Lawson:** What will you do with the goods?

**The Honourable Mr. I. I. Chundrigar:** They may be dumped into the sea for all I know or may be otherwise dealt with. They will not be allowed to be landed in India. Now, there may be another case. Supposing there is a small industry in India which is manufacturing only about 200 tons of a particular commodity. There may be cartels in the world which may be manufacturing hundreds of thousands of tons of that very commodity and a cartel may bring a large consignment into India. If that consignment is allowed to be landed even on the payment of a fine, it may be in a position to kill the local industry. There may be other instances. Therefore it is necessary to have these powers.

Now, the question is this. It is the officer adjudging the case who has to decide whether a person has to be given an option for paying the fine or not. In normal cases, the officer will give him an option. If it is an abnormal case, if it is a case of flagrant breach of Government order or if the breach is of such a character that it will have immense repercussions, then it may be necessary to say that in spite of any fine which a party may pay, the goods shall be confiscated and shall not be returned to the importer.

**Shri Sri Prakasa:** Will there be detailed instructions from Government?

**The Honourable Mr. I. I. Chundrigar:** Naturally the instructions will be issued. Suppose the officer adjudging the case decides it wrongly. There is an appeal to the Central Board of Revenue, who will consult the Department concerned as to what is their policy, what is to be done in certain abnormal cases. If any injustice is done by a particular officer taking a perverse view, then the party aggrieved has a right of appeal. I am sure Government will not exercise their powers harshly in cases where the breach was not deliberate. Mr. Lawson mentioned the case of certain *bona fide* mistakes where there was a difference of opinion between different customs officers or between the importer on the one hand and the department on the other. In such cases whenever the matter was brought to the notice of Government, action was taken and the powers were not utilised for the purpose of taking harsh action against people who committed *bona fide* mistakes. If the department is convinced that it is only a technical breach or a *bona fide* mistake, either a nominal fine is imposed or the offence is compounded.

**Shri Sri Prakasa:** Where is the provision for appeal to the Central Board of Revenue?

**The Honourable Mr. I. I. Chundrigar:** It is in the Sea Customs Act. This order shall be deemed to be passed under section 19 of the Sea Customs Act. Therefore the provisions for appeal in the Sea Customs Act will apply. In view of these provisions, though I agree that the powers of confiscation shall not be utilised in every case nor shall they be utilised harshly, it is necessary that the powers should be vested in the officer.

**Mr. President:** I should like to have one point clarified. I am just intervening in the interest of the best possible legislation. I do not want to enter into any arguments. I have also not studied the Sea Customs Act but is it contended that the position is that a particular article, the import of which is prohibited by orders, is again allowed to be brought into India in contravention of that order, if the party pays the penalty. Is that the position?

**The Honourable Mr. I. I. Chundrigar:** What happens is this. Supposing the import is prohibited and the article is brought and it lies in bond, then the customs officer at the port has the right under section 167 to say that as you have committed a breach of the order by importing this article, you will be liable to pay this penalty or have the goods confiscated. The party who has imported the goods in breach of Government orders may either pay those penalties or have the goods confiscated under section 183. The option is given—the order of confiscation will be cancelled if you pay this fine. Then in spite of the breaches of Government order, the goods do arrive in a country on payment of the penalties both under sections 167 and 183.

**Mr. President:** Is that order necessarily an order prohibiting the import of goods. If an order of prohibition stands, then any attempt at breach of that order will be sufficiently punished by penalty. The order of prohibition stands and the goods will go back. What happens to the goods? There are several orders which the Sea Customs Act has provided. We may not prohibit the entry of goods. The entry of goods may be permissible by option. I am referring specifically to an order which prohibits the entry of goods. Mr. Lawson's argument, as I understood him, is that a double penalty is provided by this particular legislation, as further penalties are provided in section 5 and in addition to that the importer is deprived of this option. Why not give the option to the importer to send the goods to the country from which he brought them?

**The Honourable Mr. I. I. Chundrigar:** That option can be exercised so long as the goods are not landed. Once the goods are landed, the discretion lies with the officer to confiscate and to levy the penalty. There have been cases in the past where people have brought the goods in India against the orders of prohibition passed by Government. If the only penalty is to take back the goods, I think very frequent breaches of such orders will take place.

**Mr. C. P. Lawson:** Might I interrupt the Honourable Member? He is in an uncompromising mood today. I have shown perfectly clearly that as a result of entrusting official and non-judicial officers with powers of levying fines or confiscating goods, abuses have arisen in the past and as he will not consent to any ceiling of powers for these non-judicial officers, will he undertake to issue a directive so that the powers are used in the manner which he has suggested that they should be used and not in the manner which leads to appeals to a Board of Revenue.

**The Honourable Mr. I. I. Chundrigar:** I remember that one case was brought to me and I issued instructions to the departmental officers. If I find that there is any possibility of the officers not understanding the Government policy, I shall see that necessary instructions are issued.

**Mr. C. P. Lawson:** It is not the question of understanding the policy but of co-ordinating the policy.

**The Honourable Mr. I. I. Chundrigar:** That will be done.

**Mr. President:** The question is—

“That in sub-clause (2) of clause 3 of the Bill, all the words occurring after the word ‘accordingly’ be omitted.”

The motion was negatived

**Mr. P. B. Gole** (Berar: Non-Muhammadian): Sir, I have given notice of an amendment today at 11 A.M. Of course, the amendment is in accordance with the remarks which I made when the general discussion on this Bill was going on. As I was not satisfied with the reply given by the Honourable Member in charge, I thought it better to give notice of an amendment. It is with a view to bring the whole clause 3 into line. If you will kindly permit me to move that amendment, it will be much better. If the Honourable Member in charge refuses to accept it, then it is a different matter. It is entirely in your discretion to allow me to move it.

**Mr. President:** I have said it more than once in this House that I do not like these last minute amendments except those which are substantially agreed to by all sections in the House. Otherwise, there is no end to the amendments coming in and I do not want to be driven into the invidious position of accepting some and rejecting others. Of course, I am entirely in the hands of the House.

**Mr. P. B. Gole:** May I just point out what the amendment is and I have given notice of it?

**Dr. Zia Uddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): We have not got a copy of the amendment.

**The Honourable Mr. I. I. Chundrigar:** This point was raised during the general discussion and I gave a reply that even though the goods were not prohibited or restricted, it is necessary to have these powers to get space in warehouses. Therefore, it is not possible for me to accept it. I gave the explanation yesterday.

**Mr. President:** In that case, there is no question of permitting that amendment now. The matter has already been discussed in the House. I do not think I can permit the Honourable Member to move it.

**Mr. P. B. Gole:** It would be much better if I were allowed to explain the amendment.

**Mr. President:** There has already been a discussion on the point.

**Mr. P. B. Gole:** Sir, I oppose this clause. If I had tabled my amendment earlier, I could have expected a very satisfactory reply from the Honourable Member in charge as to why this particular sub-clause (3) has been put in the manner in which it has been put in. If you were to read the whole sub-clause (3), you will find that it refers to prohibited or restricted goods. But if you refer to . . . . .

**Mr. President:** Does the Honourable Member propose to repeat all his arguments again. He might just touch those arguments, but if he intends to repeat them, I am afraid I shall not be able to permit him to do that.

**Mr. P. B. Gole:** I am not repeating, but I am just trying to show the inconsistency in this sub-clause. Yesterday I did not show the inconsistency; I only pointed out the difficulties that arose. If you read the whole clause 3, it comes to this. Sub-clause (1) refers to an order prohibiting or restricting the import or export of goods. That is all right. Sub-clause (2) refers to the confiscation, if necessary, of those restricted or prohibited goods. That is also all right because it is in consonance with sub-clause (1) and it follows as a corollary of sub-clause (1). If you refer to sub-clause (3), it is too wide, wider than sub-clause (2). In sub-clause (3), the reference is to any goods, whether restricted or prohibited or not. Sir, I know the Honourable Member in charge is an eminent lawyer, and he will see that, really speaking, this sub-clause should refer to goods which have been restricted or prohibited under sub-clause (1). Now, here sub-clause (3) is wider than sub-clause (1). That would be rather inconsistent. Therefore, I pointed out yesterday that it is too wide a power which has been claimed under sub-clause (3). If this sub-clause is to be consistent, it should refer only to restricted and prohibited goods and you should not include in them goods that are not restricted under sub-clause (1).

Yesterday I was told that the authorities are wise enough and how would they administer this law in a wrong manner? In fact, an assurance was given on the floor of the House that Government will use their discretion in the best possible manner. But this assurance is not in the Act. These assurances may remain in the proceedings of this House but they are not to be found in the Act. Suppose those goods which are not prohibited or restricted are standing in the harbour and the Customs officer takes it into his head to prohibit their clearance, what is to happen? He will not allow the goods to be landed nor would he allow under sub-clause (3) even their transshipment, because that power has also been taken. So, if the Customs officer is a headstrong man, he will say: "All right, you have brought these goods, but I am going to restrict their clearance for home consumption and I am also going to restrict you from transshipping them to any other place abroad." In that case, what is this man to do? Perhaps the goods should be drowned in the sea as the Honourable Member himself said and perhaps the man should also be drowned in the sea along with them. Of course, the situation has not arisen. But if it is to arise later on, are we going to enact for it? Are there any instances which have occurred where the party which brought in goods which were not prohibited or restricted and which were lying in the harbour were not allowed to land? Is not the Honourable Member going to take into consideration this point that at least under the law no wide powers should be given? If we are going to leave all these matters to the good sense of the authority, then there is no necessity of making this law. The authorities are very sensible and they are not corrupt as the Honourable Member said. He also said that there is much exaggeration in this sort of corruption that is attributed to them, although every Member in this House has complained about it. If the Honourable Member is satisfied that there is no corruption and the officers of Government are wise, then in that case there is no necessity of enacting any law at all. Leave it to the good sense of the Customs officers or the officers of the Government of India and all will be well, and we shall all be governed all right and it is not necessary for this House to debate on such questions. This will be *Ram raj*. I would certainly welcome it. But really speaking, as we are living in a democratic age, we are very cautious about the rights of the people and it would be really harmful to the country as a whole to entrust such wide powers to Government which propose to exercise them in a manner most detrimental to individual members. Therefore my amendment comes in which is a

P.M. very simple one meant only to restrict this sub-clause (3) to restricted and prohibited goods in order to make it consistent, so that just as sub-clause

(2) refers to goods restricted or prohibited under sub-clause (1), the goods referred to in sub-clause (3) should also refer to goods restricted under sub-clause (1). That was my idea so that the whole section might look consistent so far as clearance of the goods was concerned. I am really surprised and I am very sorry that the Honourable Member does not see his way to accept this amendment. So that question goes out. I have explained the reasons why I have tabled this amendment because I was not satisfied with the reply given by the Honourable Member, and I, for one, would not leave these matters which are matters of law to the sweet will and discretion of the government officers. Therefore I oppose this clause as a whole.

**Dr. Zia Uddin Ahmad:** Sir, this Bill has been before the House for over a week and there was ample opportunity for every Honourable Member to table amendments. Of course it is possible that my Honourable friend did not think of it till this morning, but in any case, I think courtesy demanded that he should have circulated copies of his amendment at least to the Whips of Parties so that any Member who is interested in the Bill may have an opportunity to read and study this amendment. As I read the Bill, I do not see any contradiction myself. He may argue that some officers may take it into their heads to do anything. This kind of apprehension applies to every section of the Indian Penal Code. If a magistrate or any government officer takes it into his head and does something, that is an extraneous circumstance. It is generally presumed that the law will be administered by persons who have got commonsense. If the Government should find out that one of the government officers does not use his commonsense but is administering the law in a freakish way, it will certainly be the duty of the Government to see that that officer does not continue in his post. My friend's apprehension is this. Suppose the goods are neither allowed to go back nor allowed to come to the shore, then what happens. I could not by any stretch of imagination think of an officer in a responsible position like the Collector of Customs who will issue such orders that goods should remain on the boat for an indefinite period. Something will have to be done and it cannot be allowed to drift in this manner. If the Honourable Member should read the Bill carefully, he will find that the Government can always issue instructions as regards the manner in which these things should be disposed of. This power is still there and it can be exercised. Besides the Honourable Member in charge of the Bill has given an assurance on the floor of the House as demanded by Mr. Lawson that he will issue instructions in the manner demanded by him. With these precautions which have been demanded and with the assurance given on the floor of the House, I do not foresee any great difficulty in actually carrying out the purpose of sub-clause (3). I have not read the amendment of my Honourable friend Mr. Gole. Perhaps it may be an improvement in drafting but without carefully studying it, it is very difficult to give an expression of opinion. As far as I can see this particular clause is not unworkable. It is quite workable and with the assurance given by the Honourable Member that if at any moment a situation arises that some officer makes it unworkable by not using his commonsense then the matter will be looked into by the Government and the whole thing will be corrected, with this assurance. I think my Honourable friend should have no objection to his clause being adopted. Sir, I support the retention of this clause.

**The Honourable Mr. I. I. Chundrigar:** Sir, I have explained the point raised by Mr. Gole during the general discussion yesterday and therefore I do not wish to take up much time over it. No doubt the powers under this clause can be used in two cases, firstly in the case in which Mr. Gole is prepared to allow the Government to use it, namely with respect to goods the import or export of which is either prohibited, restricted or controlled. He says it should

[Mr. I. I. Chundrigar]

not be allowed to be used in any other case. But as I mentioned yesterday it is to be used sometimes even in respect of goods the import or export of which is not prohibited or restricted or controlled when we have to find room for other goods which arrive and orders have to be passed to find room for them. I can assure Mr. Gole that the powers will not be used in respect of goods other than those the export or import of which is prohibited, restricted or controlled except in cases where it may be necessary for the purpose of having necessary warehouse accommodation.

**Mr. President:** The question is:

"That clause 3 stand part of the Bill"

The motion was adopted.

Clause 3 was added to the Bill.

**Pandit Thakur Das Bhargava** (Ambala Division: Non-Muhammadan): (The Honourable Member spoke in Hindustani. For Hindustani text see Appendix to the Debates for the 19th March, 1947. English translation given below.—*Ed. of D.*)

I refer you to certain provisions of clause 7 of the Bill. It reads—(Inter-ruption). The House might have noticed that Clause 7 gives more safeguards than are required. It encourages public servants to do what they please since it gives them too much protection. I think it gives them the same authority as it gives to the Government that they may do whatever they like without fear of any law. After martial law was proclaimed in India, Immunity Act was passed. Now in every Ordinance and Bill there is an immunity clause. Immunity has come to mean nothing in these days because this is the time of peace and not of war. The need of the day is to establish peace. In this time of peace there is no need for such a clause for a public servant. I should say that in reality these laws, which are being made to take the place of the ordinances, give such power to the officials and the Central Government that they can abuse their authority. This bill should contain no provision for the protection of those who have been given full powers in it. In the Bill the powers for the Central Government are such that they may or make the country according to their sweet will. I do not think there is any member in the House who does not want to give power to the Government to control export and import. But, at the same time I uphold the principle and consider it necessary that if this power is given to a Government whether it be national or not national it is necessary that the legal reservation that vests in the public should be upheld. There is a saying in English: "Eternal vigilance is the price of liberty". If you consider that this power will be abused by Government or by any of its officials you should not allow the liberty given to them in the bill. Honest and good-intentioned public servant need no safeguard, and it will be foolhardiness to give safeguards to a dishonest and corrupted official. A good law with legal power and the safeguard for its use has two inseparable aspects. Separating one from the other will cause many irregularities. It is, therefore, necessary for a good law to keep them together. That is why no independent board or impartial body who could regulate the powers vested in the law has not been framed. As at the time when the question of giving further powers to the police was before the House, Sardar Patel said that possibilities for corruption increase with the increase of powers of the officials. Similarly if you give power in this Bill you increase corruption and its possibilities. Moreover, where is the necessity to enact this Act of safeguards when there is one already existing? I ask with due deference how can an officer working in good faith in conformity with sections 76 and 79 of the Indian Penal Code be liable or be answerable for his actions? Such an officer requires no new law.

Section 7 lays down that no court can question an order given under this Act. The order is final and nothing can stop its consequences. But, if the order is given with a corrupt motive or carelessness there is no reason why the giver of the order should be protected from legal responsibility. If a person has done something which comes within the purview of an act there is no need to enact another law to safeguard him. We in India do not want laws of France. *Droit Administratif* is not in force in India. According to British law which is also the law of India if a soldier in obedience to an illegal order of his Commander shoots a man dead he is liable to be punished with death by a civil court. We must therefore uphold the ordinary law of the land and should not go beyond it. I have heard Dr. Zia Uddin and others expressing their ideas on Controls. They have all said that control and corruption are one and the same thing. If there is so much corruption what is the remedy for it? There is only one remedy and that is that every Government official should be held responsible for his illegal action and should be given no safeguards. If your intention is to provide safeguard for an honest officer he is already safeguarded by the existing law of the land. If officials understood that further safeguards have been provided for them they will get careless and corrupted. All the members have been plainly telling the House that corruption and dishonesty exist in the Commerce Department and it is feared that the passing of this bill will enhance them. I feel disgusted when I hear the stories of corruption in the lobbies. There are complaints against high officials. I wonder how the Commerce Member has said that there will be no corruption in the administration of this Act. I live in the Punjab and I am not much aware of the export and import Department; but members who hail from Calcutta and Bombay say that there is great corruption in it. If it exists I will say that our misfortune knows no bound. How will the Commerce Member who says there is no corruption in his Department remove it? I say if there is corruption it should be admitted and met rather than to say that there is no corruption. This I am afraid will increase it. Moreover, these words in section 7—"no order made or deemed to have been made under the Act shall be called in question in any Court"—are so wide that they give a great arbitrary power to the authorities. Final power or authority is a dangerous thing and its right use is necessary for the good of the society. I need not repeat the definition of the arbitrary power given at the trial of Warren Hastings. All the Members might remember the speech of Edmund Burke in which he says that arbitrary power is dangerous to whomsoever it may be given. The man who uses it is answerable to the law of the land.

Moreover, the Bill contains these words: "and no suit, prosecution or other legal proceedings shall lie against any person for any thing in good faith done or intended to be done." Sir, I want to tell you particularly about these words that if an officer works with honesty and in good faith he needs no safeguards especially when legal safeguards exist in the law of the land. If the intention is good and the action is done in good faith who can hold him blameworthy? I say it is not proper to give so much safeguard to a public-servant that he may defend himself under cover of good intention when his action is not based on good faith. There is a saying in English: "The way to hell is paved with good intentions." Moreover, it is very difficult to determine good or bad intention. The saying is: "Secret things belong to God." I should say that I have never seen a Bill in such wide terms. Mr. Satkopalari has already referred to it. I am really at a loss to understand why should we allow such provisions in an Act. The fact is no matter how much the intention is bad and the action is good or the intention is good and the action is bad we will draw conclusions from the act only and the act alone will prove the goodness or badness of the intention. It will be



[Pundit Thakur Das Bhargava.]

dangerous therefore not to see the act but see the intention. Section 4 of the Bill says: "Anything in good faith done or intended to be done under this act or any order made or deemed to have been made thereunder." "Deemed" means an order which do not come but can be drawn under it by inference. Even that is outside the court's jurisdiction nor can any member of the public seek redress against any official's such act.

**Mr. President:** Will the Honourable Member refer to clause 4 of the Bill? That clause not only declares that certain orders made under the Defence of India Rules shall continue in force but even when the Defence of India Rules are not in force, these orders shall be "deemed to have been made" under this Act. Therefore there is a classification of two kinds of things,—things actually done after this Act comes into operation and orders passed under the Defence of India Rules which shall be "deemed to have been passed" under this law. Therefore there are two classes of acts and orders—one order made under this Act when it comes into force, and the other orders made under previous legislation after it expires, which shall be deemed to be orders passed under this Act. Therefore the words used are 'shall be deemed'.

**Pundit Thakur Das Bhargava:** I thank you, Sir, for your explanation of section 4. "Deemed to have been made" refers to orders contained in the Defence of India Act. May I draw your attention to these words of section 4: "Shall so far as they are not inconsistent with the provisions of this Act continue to be in force and be deemed to have been made under this Act." In the first instance the original order in the Defence of India Act was inconsistent. The mistake that shall be made cannot be rectified, which means that if the original of the Defence of India Act was inconsistent it could be made consistent by dint of "deemed to have been made" and there will be orders under this Act which though not contained in it will be considered consistent by the force of "deemed to have been made". In other words, order which will not be contained in the Act will be made consistent by 'double dose of distillation' under the definition of "deemed to have been made."

**Mr. President:** I am afraid the Honourable Member has completely misunderstood the whole thing. The Honourable Member will see, if he looks at the proper interpretation of it, that orders made under the Defence of India Rules shall continue to be in force to the extent to which they are "not inconsistent with" the present Act. The moment, therefore, any old orders are inconsistent with this Act, they will not remain in force, and to the extent to which they are consistent with this Act they will remain in force. Though they have been old orders passed under the Defence of India Rules they shall "be deemed to be" orders passed under this Act. Such a procedure is necessary for the purpose of continuing the administration of the department. What was done in the past in so far as it is "not inconsistent" with this Act shall be deemed to be in force under this Act.

**Prof. N. G. Ranga** (Guntur *cum* Nellore: Non-Muhammadan Rural): What about the future?

**Mr. President:** About the future, as soon as this Act comes into force, orders will be made under this Act. Therefore, there are two classes of orders—old orders which continue in so far as they are not "inconsistent" and new orders to be given under this Act. One set is classed as orders "deemed to have been made" under this Act and the others are orders under this Act. Therefore, this double expression seems to have been used. The Honourable the Commerce Member will be a better exponent of this. I am merely drawing the attention of the Honourable Member to the legal aspect of this.

**Pundit Thakur Das Bhargava:** I submit with due deference that I understand section 7 contains orders made under this Act and also those orders deemed to have been made, under this act. The section therefore contains such orders both past and future. Sir, I want to refer you to the statement made by Honourable the Commerce Member saying that when no particular complaint has been made by the public with respect to this Act there is no harm in giving such powers. I do not admit that powers have not been abused or exceeded but I want to say in answer, to this argument that if the law to hold a public servant answerable to a court be accepted as right how can it be proved that the public gave unreasonable trouble or loss to the public servant or made unlawful use of the privilege?

In view of all these things I say that be he a public servant or anybody else the grant of such a safeguard which may allow a person to use power arbitrarily is not proper. The law has already given many safeguards. I should, therefore, say that unless the necessity is proved this sort of special clause is allowed by no policy. This is a thing which should not be overlooked by any legislator. Wherever such a clause is made there the public's right is usurped. It is the right of every individual be he a public servant or anybody else to bring the person who has given him trouble, to the Court. This right is usurped by this Clause. The right of the public is inherent and we certainly complain that our right is being usurped. Such a clause is being passed under our very nose. I say where no other safeguards have been kept; where arbitrary powers have been given there you should not deprive the people of their legal rights which is guarantee and safety for the right use of the powers of the law. I therefore say that clause 7 may not be accepted.

**Khan Abdul Ghazi Khan** (North-West Frontier Province: General): (The Honourable Member spoke in Hindustani. For Hindustani text see Appendix to the Debates for the 19th March, 1947. English translation given below.—*Ed. of D.*)

Sir, I had no mind to speak on this bill; but hearing the passioned speech of Pundit Thakur Das Bhargava I thought of saying something. He has said in the course of his speech that a sepoy who kills a man under orders from his officer can be prosecuted in a court of law. This is absolutely wrong. The truth is that a government servant who discharges an unpleasant duty must enjoy protection or otherwise it will be like making a vehicle and fastening its wheels with strong chains so that it may not work. It is a mere excuse to say that it is an interference in public freedom. As a matter of fact any kind of law is an interference in individual freedom. I understand Panditji's feelings. It is his duty to oppose such a legislation otherwise how will the vakils make their living. This is a fact.

And, therefore, my Honourable friend is worried. I will appeal to the Honourable the Commerce Member to put it in such a way that the income of the Vakils and Pleaders is not decreased, and then it will be approved by all the lawyers and we will be saved all these long speeches.

**Dr. Zia Uddin Ahmad:** I said in the beginning that I am opposed to this system of controls. It is a great nuisance to the public, and I said that corruption and controls are synonymous and interchangeable. Just now I asked one of my poet friends—Maulana Zafar Ali Khan—who is an old classfellow of mine, to compose a couplet on the lines of Ghalib's couplet.

*Qaid-i-Hayat-o-bande Gham asl men donon ek hain,  
Maut se pahle admi Gham se nijat pae kion.*

**Maulana Zafar Ali Khan** (East Central Punjab: Muhammadan): My Honourable friend asked me to compose a couplet, and here it is:

*Rishwat-o-kantrol ko asl men ek janen.  
Daur yeh kangras ka hai phir koi chain pai kion.*

**Dr. Zia Uddin Ahmad:** I do not like control only in the case of imports and exports, but I do like it anywhere—may be in the rationing of food, cloth, or anything. But once you have accepted the principle of controls in the consideration stage, then you have to accept all the consequences which follow. If you have accepted that control should exist, then you will have to accept logical consequences. Sir, most of the businessmen who will come to deal with him will be millionaires and multi-millionaires who can afford to fight a case for years and years and who would be prepared to spend any amount of money, and on the other side there will be a poor man with fixed income who in these days is a pauper. Then his life will not be worth living. If you do not protect him in the manner that is provided in this clause very few persons will be willing to accept this post and carry on their duties with honesty and with a conscience, because nobody would be able to face millionaires if in peace-time he is to be dragged to the law court. If you introduce this thing then the protection of the officers is necessary against the litigation and against all kinds of dragging to law courts by means of these multimillionaires who will be on the other side. This man with a fixed income has to deal with persons for whom money is no consideration. They are prepared for very small matters to spend lakhs and the life of this man will become a hell. Either he will not be able to exercise control and he will say ditto to any demand made by these businessmen or he will give up his job. If you want a proper exercise of his responsibility the protection of the officers is necessary against those persons who will force him to adopt mal-practices which none of the officers may like to do. Once you have accepted the control and you have swallowed the big pill, now do not object to eat the flies and little things.

**Sri T. V. Satakopachari** (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural). I wish to support Mr. Bhargava in trying to make a plea for the individual liberties of the ordinary citizen as against the encroachment of it by the bureaucracy in its administration. I also agree with him that *Droit Administratif* should have a place in the jurisprudence of our country. On a last occasion in a parallel legislation of this kind, when such a saving clause was sought to be incorporated, I raised a feeble objection, saying that the phrase "in good faith done, or intended to be done" did not sound well and the phrase "intended to be done" may as well be dropped. You said that it was very common in all legislation and I did not want to pursue the matter further, because it was not so much an act which was penal in its nature as this is. I wish to draw the attention of the House to Clause 5 which is a penal clause incorporated in this Act on the strength of acts done in good faith or intended to be done in good faith. As my learned friend Mr. Bhargava, pointed out, if these words are added, it would make a very great inroad on individual liberties. Good faith has been defined in different statutes in the law of this country. One is the penal code. Good faith is defined to be that which is done with due care and intention. I might be very good yet to do an act without due care and attention. Yet the law will say that I have not done it in good faith. There is the General Clauses Act which applies in regard to civil law. There, if I did a particular act in "good faith", I did it honestly. Having incorporated a penal clause here, if good faith is not properly defined, then there will be difficulty, because if it is not done with due care and attention. I cannot understand a saving clause being included. If a person does not do it with due care and attention, let the officer take the consequences. Supposing it is a case where a penal clause is not included and at the same time a civil protection is given to the officer. He might say after having done an act without due care and attention, even after having done it dishonestly, he may say "I did it honestly." So I plead that this saving clause in section 7 ought to be omitted. In all these matters the ordinary law is clear. It is not because a lawyer wants to take his fee and argue that way, but because individual liberty is much more sacred than

the protection of the administration. That comes only second. The individual liberty has to be safeguarded first. What the law wants to do is to safeguard the individual from the encroachment of legislation. What I would say is that we should take a broader view. In every legislation now this sort of saving clause is being introduced and that is a bad precedent. It gives a lot of power in the hands of the administration. The power is already there. It enlarges the power. It takes away the safeguard the ordinary citizen has got. If we cannot go and agitate in a court of law, what is the protection for the ordinary citizen. Especially in clause 7 a citizen may be punished with imprisonment. It is a very tall order. If he is liable to be imprisoned, he should have the liberty to go into a court of law and say that the officer may have behaved badly.

You made another observation, which I am afraid I have to say I was not able to comprehend. You compared clause 4 with clause 7 and drew attention to this, namely, "all orders made under rule 84 of the Defence of India Rules shall continue in force and be deemed to have been made under this Act." and I think you tried to draw a parallel between the phrase "deemed to have been made under this Act" in Clause 4 and a similar phrase in Clause 7. That I believe was your intention. In clause 7 what is intended is this. The action that is deemed to have been made under this Act may be a future action. That is to say, in clause 4 an action which was taken under the Defence of India Act is deemed to be made under this Act after the Defence of India Act has expired; that is to legalise past acts. Under clause 7 an order which is made or deemed to have been made under this Act shall be valid. Then the officer might yesterday have done an Act absolutely beyond the scope of this particular statute. But he might say "I deemed to have done it under this Act. I did it under the misapprehension that I did it under this Act." There may be an act which may be *ultra vires* of the statute. An officer might say "I did it under section so and so, and I deemed it as done under this Act." That I submit will be the very wide interpretation of what has been mentioned by the Commerce Member and I suggest that a suitable modification is made and an ordinary citizen is protected.

**Prof. N. G. Ranga:** I am surprised how one after the other these Bills are coming before us as being only the ghost of the Defence of India Act. I am obliged to wonder whether we are still living in war times or whether we have past war times and we are trying to live in peace times.

**Sjt. N. V. Gadgil** (Bombay Central Division: Non-Muhammadan Rural): Between two wars!

**Prof. N. G. Ranga:** I wish to know who actually framed this Bill if it is not a State secret. I am sure it cannot be the Honourable Member. If it had been, the conscience of the Honourable Member himself coming from a province where he was obliged to be in a minority in a Legislature, would have rebelled against this clause 7. If he really had scrutinised the Bill and yet his conscience had not rebelled against it, there must be something wrong with my Honourable friend and I would advise him to consult a doctor . . . .

**Sjt. N. V. Gadgil:** Not you?

**Prof. N. G. Ranga:** Sir, I was shocked at the attitude of my Honourable friend Dr. Zia Uddin Ahmad. He has told us that controls and corruption go together. He is opposed to all controls. He now comes here and says that we should further strengthen the hands of these officials who are obliged to become corrupt because of these controls, by making them completely immune from any sort of action either in courts or elsewhere. That certainly is harmony with the usual inconsistency that my Honourable friend has been suffering from for a long time!

[Prof. N. G. Ranga.]

I am very sorry, Sir, to have to disagree with my Pathan friend, Khan Abdul Ghani Khan. He says "Why do you think of any liberties at all?" I can understand that from him, because he is a Pathan: he believes in the sword and not in courts of law. But we poor people cannot very well resort to the sword every time we get angry with anybody else. When somebody has done an injustice to us we are obliged to go to a court of law and behave in a peaceful and law-abiding manner.

**Khan Abdul Ghani Khan:** I did not say that liberty was unnecessary. I only said that the very fact that law is a surrender of liberty, a really free man is a man without any law.

**Prof. N. G. Ranga:** I am glad that my Honourable friend has answered himself and therefore I need not labour his point.

Here comes the point. If you make an officer so very immune from any consequences of his act, what is likely to be the effect of such immunity on his mind? He becomes a law unto himself, a miniature Hitler.

**Dr. Zia Uddin Ahmad:** I am amused.

**Prof. N. G. Ranga:** He will find that it is not going to be such an amusement. My Honourable friend will not even be allowed to remain as Vice Chancellor of the Aligarh University. That officer will send him to jail straightaway and there will be no appeal at all against him. Certainly he becomes a miniature Hitler or Mussolini and there is no appeal against him. Then my Honourable friend, the Member for Commerce, will not be able to control his own officers. He might try to control them in regard to the future by giving instructions but where is the guarantee that they will carry out those instructions? They are already permanent officials. If they cannot be kept in one place they have got to be sent somewhere else and they are absolutely safe. My Honourable friend Dr. Zia Uddin Ahmad said that they are a poor people and are paid only very small salaries. Therefore they have got to be protected. On the other hand, the public has got to be protected against the menace of these officials. There is Section 80 of the Civil Procedure Code to protect these public officials. If I were to prosecute any gazetted officer, I have got to obtain the permission of the Government. The Government then has a chance of looking into the case and see whether that officer has really committed any blunder at all, whether it is a *bona fide* blunder and whether it would not be the duty of the Government itself to defend him . . . . .

**The Honourable Mr. I. I. Chundrigar:** May I know what provision of the law the Honourable Member is referring to?

**Mr. President:** Let us not go deep into the provisions of law. The Honourable Member is not a lawyer.

**Pundit Thakur Das Bhargava:** Section 197 of the Criminal Procedure Code.

**Prof. N. G. Ranga:** Therefore it does not matter which particular number the section of the Code is. I would advise my Honourable friend to go to Pundit Thakur Das Bhargava. Let him contradict me if I am wrong, whether I should not have to obtain the previous permission of the Government before I can prosecute anyone of his gazetted officers. I do not know whether I would have to take all that trouble in order to prosecute my Honourable friend. I certainly have to ask the previous permission of the Government for prosecuting any of his officers and therefore the Government will have a chance of protecting its own officers. The resources of the Government are certainly greater than those of any Birla, Ispahani or any capitalist. Therefore my Honourable friend Dr. Zia Uddin Ahmad need not be afraid of the power of these capitalists.

My Honourable friend Mr. Bhargava has put in a very eloquent and bold plea against this section. He has quoted Burke. I can quote Laski and there is also Lord Hewett who has written a book called "The New Tyranny". Who

are these officers? Do we have any direct control over them. We have no control at all. We can take the Honourable Member to task, we can hold him responsible but we cannot hold his officers responsible for any of their acts, because this particular clause gives them complete liberty to do what they like. As my Honourable friend Mr. Satakopachari said, when you give a man such power as to send *bona fide* traders and others also to prison, should we not give this much power to the ordinary citizen of the country to prosecute these officers for illegal acts, for excessive and arbitrary acts? Therefore, Sir, I very strongly object to this clause. Will corruption abate if this clause were passed by this House. I contend that corruption will increase, because you make it absolutely possible for these officials to do whatever they like. There will be more encouragement to those officials to commit far more blunders than they are committing today and yet feel happy about it, because they would not be brought before a court of law.

There is a large number of us here and I am one of those who have suffered under the arbitrary powers given in this fashion to government officials in this country. It is true that it was in another connection that they utilised these powers but where is the guarantee that these officials will not utilise these powers given in such a light hearted manner by Government? The clause says: "No order made or deemed to have been made under this Act shall be called in question in any court, and no suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any order made or deemed to have been made thereunder." The High Court has no control over them, neither the Federal Court nor the Privy Council. Who is going to judge that the man has done anything in good faith?

**Mr. President:** The court will do it.

**Prof. N. G. Ranga:** The court has no powers here at all.

**Mr. President:** The court has power. It is not that the jurisdiction of the court is absolutely barred. Unfortunately it is difficult to convince non-lawyer friends about it.

**Prof. N. G. Ranga:** The court may come in in some way, through some sort of backdoor by arguing about it as the Calcutta High Court judges had to argue about the Defence of India Act, when so many cases were placed before them and there were on the other side equally clever lawyers to say that the court had no jurisdiction. Therefore no order made can be called in question in any court. There he can pass an order that so and so should not be allowed to import such and such a commodity, having imported it, it should not be brought to the harbour, having brought it to the harbour, it should not be allowed to land there, having landed it, he should not take possession of it, he should not be permitted to take it outside the precincts of the harbour. That order should not in any court of law be called in question. That is the power that my Honourable friend wants to give these officials. It may be possible for my Honourable friend to smile over the whole thing and in a lighthearted and non-challant manner have the Bill passed in this House. But I wish to tell my Honourable friend and his successors that the moral conscience of this country will continue to rebel against this kind of statutory provision.

**Mr. President:** I might tell the House that I find that almost the same points are practically being repeated. The language may be different and the instances may be different. I do not propose to allow that kind of debate to go on for any length of time over this question. If Honourable Members have any other important points they may place them before the House.

**Sreejut Rohini Kumar Chaudhuri** (Assam Valley: Non-Muhammadan): Sir, I shall abide by your ruling. Although I did not follow much of what my honourable friend Mr. Bhargava said in Urdu I fully support the position he has taken with regard to this particular clause. My honourable friend Mr. Satakopachari has fully shown that there is no meaning in the expression 'intended to be done under this Act'. Sir, lawyers do not like litigation. They do not go to a court of law without being paid for it. The more experience that a lawyer gains the less willing he is to go to a court of law without being paid higher fee for it. It is only the lay man who is fond of going to litigation. In our parts at least, in the frontier areas, tribal feuds go on in which parties kill each other for mere fun without much provocation. Now we are unarmed. We have neither guus nor lathis to use. But our people go to litigation for the mere fun of it. Not only that. They advance money to others for going to court. Lawyers do not encourage such loopholes of legislation as this. The layman tries to interpret law in their own way and the lawyer laughs and tries to improve matters. Sir, I will say with all the emphasis that I can command that these two clauses, clause 4 and clause 7, do not and will not speak either for the capacity of this House to legislate or for the willingness of the champions of people to preserve their liberty. Sir, we had made loud and long complaints against the Defence of India Rules. The Defence of Realm Act, as far as I know, came to an end in the United Kingdom very soon after the war. Now, the war actually ended in India in 1945. The war ended theoretically in India in April 1946. And today in 1947 we are passing a legislation which is going to perpetuate those orders which is going to give a legal clothing to the orders illegally passed under the Defence of India Rules and which is going to perpetuate the Defence of India Rules. The only feeling that can come to anyone after hearing the arguments which have been made in support of the Bill either from the Government benches or outside is that we have now to coin a new slogan and that slogan would be 'Long live the Defence of India Rules'.

**The Honourable Mr. I. I. Chundrigar:** I have carefully listened to the points urged against clause 7 and I feel that there is some misunderstanding in the minds of some members about the effect of this clause 'deemed to have been made' or to have been passed under the Act. As you rightly mentioned, Sir, those words refer to clause 4. Clause 4 reads thus:

"All orders made under rule 84 of the Defence of India Rules or that rule as continued in force by the Emergency Provisions (Continuance) Ordinance, 1945, and in force immediately before the commencement of this Act shall, so far as they are not inconsistent with the provisions of this Act, continue in force and be deemed to have been made under this rule."

It would therefore mean that if any orders under the Defence of India Rules or the Emergency Provisions (Continuance) Ordinance, 1946 are already in force and they are not inconsistent with the provisions of this Act, it will not be necessary to reissue those orders but they will be deemed to have been passed under this Act. Clause 4 only says that it is not necessary to go through that formality and issue those orders again under the provisions of this Act but that those orders, even though issued under the provisions of the Defence of India Rules or the Emergency Provisions (Continuance) Ordinance, 1946, shall be deemed to have been passed under this Act. Therefore there can be two classes of orders: one, fresh orders which can be passed under this Act after it becomes law and another, that class of orders, which were already passed under the provisions of the Defence of India Rules and the Ordinance to which I referred, and which shall be deemed to be continued, if they are not inconsistent with the provisions of this Act. In order to express this, clause 7 contains these words 'No order made or deemed to have been made under this Act'. There is no catch behind the words 'deemed to have been made thereunder'. They are used only for the purpose of explaining the words mentioned in clause 4.

**Pundit Thakur Das Bhargava:** Will not the words 'deemed to have been made' refer to any future order?

**The Honourable Mr. I. I. Chundrigar:** Normally they would not, except in a case, I will just mention. Suppose an order is passed under this Act, but the words 'passed under Act so and so of 1947' are omitted, that is, even though the words 'passed under the Act for the purpose of prohibiting imports and Exports, 1947' are not used, it will be deemed to have been passed under this Act provided it is an order under this Act. That is one part of it.

**Mr. P. B. Gole:** May I know what is meant by the phrase 'intended to be done under this Act'?

**Mr. President:** I am afraid the discussion will be reopened into a general question of this indemnity clause which finds a place in many Acts.

**The Honourable Mr. I. I. Chundrigar:** Clause 7 can be divided into two parts. The first part provides that an order made or deemed to have been made under this Act, shall not be called in question by a court of law. Suppose for every quota given, two, three or four applications are made. If anybody who is dissatisfied with the orders of the officer were to file a suit in a court and pray for an injunction stating that he should receive the quota and not the other person, there may be deadlock. If all these matters are allowed to be taken to a court of law, the actual administration may come to a standstill and there may be a deadlock. It is in order to prevent this that the first part of clause 7 has been provided.

There is the second part. An allegation can be made that the officer decides a case wrongly. If the case is decided rightly then there is no difficulty. A case may be decided wrongly in one of two ways: either the officer acts with due care and attention or he does not. If he acts with due care and attention that is in good faith, then that officer is protected. But if the officer has not acted with due care and attention, a suit can still be filed against him in spite of the provisions of clause 7 in a court of law, and the court before which this suit is filed shall have to determine the question whether the officer has acted in good faith or not. If the act is done in good faith by the officer, the court will say that it has got no jurisdiction.

**Mr. Sasanka Sekhar Sanyal (Presidency Division: Non-Muhammadan Rural):** If I may interrupt the Honourable Member for a minute, Sir, as you yourself said that the 'courts' jurisdiction is not excluded he is making the same plea. I want clarification on this point: suppose an order has been made in bad faith. If you think that the court will go into that question, then why do you want the first part of the section "No order will be called in question in any court"? If at all you give anything by the right hand you at once take it away by the left hand.

**The Honourable Mr. I. I. Chundrigar:** If a suit is filed for damages against an officer and it is proved that the officer has not acted in good faith, even under the provisions of this clause, a suit will be taken cognizance of.

**Mr. Sasanka Sekhar Sanyal:** It is entirely wrong.

**Mr. President:** Order, order.

**The Honourable Mr. I. I. Chundrigar:** That is the meaning of the words used here "against any person for anything in good faith done or intended to be done under this Act". If it is not done in good faith then he would still be liable, whereas if it is done in good faith he is not liable.

Lastly I may mention this. My Honourable friend Mr. Bhargava referred to the question of corruption and he mentioned that there are so many allegations made in the lobbies. I appeal to him once again as I have done



[Mr. I. I. Chundrigar.]

in the past—why not bring those instances to my notice when I actually promise that action will take in the matter? What is the use of making these allegations in the lobbies and not putting the matters before officers or the

Members of Government who will take action in the matter? I think it is very unfair—to make vague allegations without bringing forward any instances (Interruption). If the Act is to be worked, this clause is very necessary and I think Mr. Abdul Ghani Khan put the matter tersely but to the point that if you want the officers to administer the Act efficiently you must indemnify them and give them protection if they act in good faith, otherwise work will be impossible.

**Mr. Sasanka Sekhar Sanyal:** May I say one word? We have heard the arguments. We have not been convinced. Take the advice of the Advocate General asking him to clarify the legal position, as, in cases of bad faith, really there will be no action available.

**Mr. President:** It is not my function to advise the Government, nor is it to convince the Honourable Member but I do see as a lawyer, subject, of course, to my being mistaken, that the view which the Honourable Member has taken is a mistaken one. He is confounding the finality of an order with the protection to be given to an officer. Though under the first part, the order will be final, by not being challenged, in the court, if the order is in bad faith, the officer will not get protection from damages to the person against whom that is made. It is all a question of interpretation. I do not think I can convince any Honourable Member of this House to take a view with which he is not inclined to agree from the beginning. I will now put the clauses to the House.

**Mr. Sasanka Sekhar Sanyal:** That is my misfortune. Clause 7 may be put separately.

**Mr. President:** The question is.

“That clauses 4, 5 and 6 stand part of the Bill.”

The motion was adopted.

Clauses 4, 5 and 6 were added to the Bill.

**Mr. President:** The question is.

“That clause 7 stand part of the Bill.”

The motion was adopted.

Clause 7 was added to the Bill.

**Mr. C. P. Lawson:** Sir, I move:

“That in sub-clause (3) of clause 1 of the Bill, for the words ‘a period of three years only’, the following be substituted, namely:

‘a period of one year, provided that the Central Government may by notification in the official Gazette direct that it shall remain in force for a further period not exceeding two years.’”

The only difference between myself and a number of Honourable Members on my left is that while I have proposed a number of amendments and have put them, they have proposed a number of amendments and have not put them. Another slight difference is that whereas they have criticised the Bill very severely in a number of cases they have not carried this criticism into effect.

[At this stage Mr. President vacated the Chair, which was then occupied by Mr. Deputy President (Khan Mohammad Yamin Khan).]

The only thing that now remains is to see whether we cannot make the duration of this Bill rather shorter. The Bill to my mind is unsatisfactory. It includes a number of lacunae which to my mind constitute bad legislation.

It is true that the Honourable the Commerce Member will always come forward with the argument—"Can you imagine that an officer will misapply this legislation. Surely you don't think that a responsible officer will misapply this law."

This is an argument which permits this House to pass inefficient legislation in the hope that the officers of the various services in this country will interpret it in the proper way. The Commerce Member has frequently agreed that in certain instances he will issue certain instructions. In certain instances he has laid down how this Bill will be applied. I am grateful to him for doing that but I am bound to point out that the mere fact that it is necessary for him to do this shows that certain portions of the Act should be capable of improvement.

Now, Sir, I want to carry on the argument for and against the extension of the time. The Honourable the Commerce Member has said before that if the need for this Bill disappears, the clauses of the Bill will not be applied. In other words, if after one year he finds no need to apply any of these restrictions, the Bill will become a dead-letter because it will not be used. That, if he will forgive me for saying so, is a specious argument. In my opinion and in the opinion, I think, of a lot of Honourable Members of this House the fact that controls exist means that controls will be exercised. I won't labour that point but will merely suggest that the amendment which I have put forward gives Government all the powers they have under the present Bill but makes it necessary for them to review the situation at the end of one year. If my amendment is not accepted, there is no need to review the situation at all. They can go straight ahead, leave the Bill as it is, have restrictions, here and restrictions there, which may be restrictions to deal with the exception rather than restrictions to deal with a broad necessity. That is what I am afraid of. If the Commerce Member will again permit me, I think in defending his attitude regarding certain of the amendments that have been put up today, he has quoted exceptions rather than general reasons why he cannot accept these amendments. He said, "Supposing we have to stop South Africa sending goods to this country, or supposing we have to stop the Dutch sending goods to Indonesia",—that I suggest, is legislating for the exception and not legislating for a general need. That is why, Sir, I suggest that the period of this Bill should be reduced in accordance with my amendment. The amendment will not necessarily alter the fact that these provisions will be in force for three years. The Government will have the option under this amendment at the end of one year to say that the terms must go on for some time longer. But I do ensure by my amendment that the matter will be carefully considered at the end of one year and that, Sir, is the best that I can do after a somewhat uncompromising attitude on the part of the Commerce Member, an attitude which, I must say, he has maintained with peculiar success for two days.

**Mr. Deputy President:** Amendment moved:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'a period of three years outy', the following be substituted, namely:

'a period of one year, provided that the Central Government may by notification in the official Gazette direct that it shall remain in force for a further period not exceeding two years.'

**Mr. Manu Subedar** (Indian Merchants' Chamber and Bureau: Indian Commerce): Sir, I regret I am under the necessity of having to disapprove of the amendment put forward by my Honourable friend Mr. Lawson. In putting forward this amendment he says that all that he wants is that the Government should consider it at the end of one year. If he were to put forward the idea that this matter must be brought to this House and the sanction of this House should be taken after one year to the continuance of these laws, he would have greater sympathy from some of us, because then he would be enforcing the

[Mr. Manu Subedar.]

principle that this Government is acting under the authority which it derives from this House and is not afraid to bring in as often as you like the authority which they want to exercise for being confirmed by this House. But that is not his amendment. All he says is that Government should consider it at the end of one year and if, after consideration, they thought it necessary they should say that the operation of this measure should be extended for two years. Now, Sir, that pre-supposes that this Government will act in a particular manner. I am sorry there was a slight misunderstanding yesterday and my friends thought that I was putting a wrong interpretation. But I have no desire whatsoever to misinterpret the views which they have. But taking logically and properly what is suggested here is this, that this Government must consider at the end of one year. I am sure it is not implied by my Honourable friend, but is it implied, may I ask, whether this Government will continue these powers even if there is no necessity for them and even if they are satisfied that no longer a situation exists when the exercise of these powers will be necessary? Is it implied that this Government will not consider it of their own accord if they were not tied down by the letter of the law of this House? I feel that this implies a certain amount of faith in the wisdom and the desire for doing the lawful and the proper things on the part of this Government.

Now, Sir, taking the situation of the world as it is, we are in the third year after the war. It is frequently said in this House: "Is the situation in the world improved? Are we anywhere nearer normal times?" Can anybody prophesy with any confidence the happenings of either political or economic or international issues in the next twelve months? Is it not a fact that in some parts of the world people are already talking about the third war? The more timid ones see, as the outcome of what is happening in the world, that the third war is no far off. Apart from the third war, the international wranglings, the famines, the difficulties of production, the labour trouble, strikes, the riots, the unsettlement and the inflation which in our country is a very serious problem, the expectation that economic matters will be sufficiently settled in the course of the next twelve months is not likely to be there. I believe that the occasions for exercising stricter controls will gradually abate and I am sure the Honourable Commerce Member will give an assurance to this House that as and when they abate, powers will not be unduly exercised and that risk will be taken even in ordinary trading matters to err on the side of non-exercise rather than of exercise. But, Sir, taking the international situation, the exchange situation, the shipping situation and the efforts made by hostile nationals and hostile groups to try and pass on a trick on this country, there may be people in this world who will think that this country is free as a new country and the administrations there do not know and therefore they shall be able to get over us. Supposing there are efforts of this kind, must not this Government have adequate powers to deal with the situation as and when it arises? Will it not arise after twelve months? If they thought that it was necessary to continue these powers it would not be possible for them to do so under Mr. Lawson's amendment. This shows a certain amount of distrust of this Government. I trust this House will not accept this amendment.

**The Honourable Mr. I. I. Chundrigar:** The reply on the amendment has been given by Mr. Subedar and I have very little to add. I mentioned this point during the general discussion of this Bill. I then stated that several orders are being reconsidered every fortnight or sometimes even every week and the position relating to each commodity on the export and import side comes up for review either on some occasion or another before the department. When it is found that it is no longer necessary to impose any control then the control is withdrawn. I also told the House that even when control is withdrawn, sometimes it becomes necessary to reimpose it. Therefore it is not

possible to say how long these powers will be necessary and therefore it is provided that the life of the Bill shall be three-years. But that does not mean that every order issued under this Act, when it becomes law, will be valid for three-years and that it will not be withdrawn during that period if circumstances justify it.

**Mr. Deputy President:** The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'a period of three years only', the following be substituted, namely:

'a period of one year, provided that the Central Government may by notification in the official Gazette direct that it shall remain in force for a further period not exceeding two years.'

The motion was negatived.

**Mr. Deputy President:** The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. I. I. Chundrigar:** Sir, I move:

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

**Mr. Deputy President:** Motion moved:

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

**Shri Sri Prakasa:** Sir, I should like to offer on my own behalf as well as on behalf of the House, our congratulations to the Honourable the Commerce Member for having so successfully piloted the Bill through the House. I should also like to offer him my thanks, and I am sure I voice the feelings of all sections of the House when I say this, for the great courtesy and patience with which he has listened to us all and in his own way tried to meet our point of view. Sir, this Bill looked an apparently innocent one and it was certainly a small one, but it has kept us busy for a long time in the House discussing its provisions and it almost brought us to a situation with which we seemed to have been faced when the Defence of India Act itself was being discussed. But for the fact and patience of the Honourable Member, we might not have seen the end of the Bill even today.

When, however, the Honourable Member makes his final speech before the Bill is enacted into law, I should like him kindly to meet the two points raised by me in the course of the debate, namely what steps will he take to prevent monopolies. (*An honourable member:* And corruption) I will not dilate on corruption, because it is an ugly word and I am assured by the Honourable Member that nothing of the sort exists. But I am against monopolies and I should be glad to be assured by the Honourable Member that under his scheme, no monopolies would be created and that trade would be allowed to regain its natural channels and that proper men will be in proper place without being hectorred or bullied by those in governmental authority. The other small question which also I was trying to press and the reply to which I could not catch, if my Honourable friend gave it, is what would happen to the goods that would be confiscated by him that have been clandestinely brought or illegally attempted to be brought into the country. What is going to happen to those goods? That is what we want to know. I do not want that unnecessary hardship should be inflicted on any one, though of course we do not want any goods from South Africa. Would the Honourable Member be prepared to issue elaborate instructions to officials so that they may exercise proper discretion about controls or in permitting persons to pay fines in lieu of confiscation? We are not overfond of officials in the land. That is an unfortunate thing. But it is there. So long as that feeling exists, it is up to the Government so to act that no legitimate cause may arise for such feelings to persist. I

hope, Sir, that under the sympathetic management of the department by the Honourable Member, all its evils will be eliminated and only the good will remain.

**Dr. Zis Uddin Ahmad:** Sir, I wanted to have control over speeches as well. I will take only a few minutes. My Honourable friend Shri Sri Prakasa pointed out his difficulties, the difficulties of monopoly. I pointed out in the beginning that there were three enemies to our trade, first combines, second monopoly and third hoarding. So, in order to have free trade our Government have to face all these difficulties. I am sure the Honourable Member would rise to the occasion and face all the difficulties which are enemies to free trade. I see my Honourable friend Prof. Ranga is not here. I reserve for some other occasion when he will be present, to offer my remarks regarding his point. I do not like to say anything in the absence of the Honourable Member. I might take the occasion of the Finance Bill to say something about his speech delivered in connection with clause 7 of the Bill. The next thing is that though I do not like controls, but when once you accept this unpleasant principle, then the consequences which follow should also be accepted. You cannot start with the idea that no control is necessary and then afterwards have recourse to things in which control may become difficult. I should like to put the entire responsibility on Government. If control is to be accepted then I would not like any non-official sharing that responsibility in this particular case. In that case it will become worse. I am quite certain that the Honourable Member would not only look after the difficulties mentioned by Shri Sri Prakasa, namely the difficulties of monopolies but will also see that a few persons should not join together and form a combine. We have in the country a ring of businessmen so that the whole thing is really kept moving about within that particular ring. They all run it in different names, but they all form one particular ring, one combine. This also should be faced. One class of people should not set up groups and should not have the entire monopoly of licence or permits to export and import these articles. The next thing is about hoarding. They should not be allowed to get sufficiently large quantities by import so that they will have opportunity to hoard and sell at a time when there is a dearth of such articles in market, at a high price. If these three enemies are properly checked, then I am sure that the Bill will not have the same unpleasantness as may be expected. Unpleasantness there must be in control, that is unavoidable. If these three things are properly checked and properly supervised, perhaps the unpleasantness will be mitigated to some extent.

**Mr. Sasanka Sekhar Sanyal:** Sir, the Commerce Member has been rightly congratulated on the very sporting spirit with which he met the criticisms on the different provisions of this Bill. I also expect him to be sportsmanlike in the matter of the views offered in regard to clause 7. He must have noticed that there was very strong difference of opinion. I do not claim that the views we expressed were infallible and I hope he also will not claim that his own views are infallible. It is a matter that has to be investigated. After all it is not a matter of mere technical interpretation of the law but of putting a premium on dishonesty of officials. Merely saying that officials are not dishonest will not make them honest. At the same time I believe that there should be some protection given to officials against frivolous prosecutions and accusations. But the way in which the clause has been worded practically serves as a steel helmet for all dishonest officials. Unfortunately the Honourable President is not here just now, he offered his own opinion and that was very much to the advantage of the Commerce Member. But now that the Bill is being passed with the inclusion of clause 7. I would request the Honourable Member to have the matter examined by the proper authorities. If he is reassured in the position that his view is correct, we shall be glad to be told that we are wrong. But if he finds that there are some loopholes for

dishonest officials to escape he should take the earliest opportunity to come before the House for having such modifications as are called for. In the meantime he should make it very clear to the department and the officials that Government's intention is not to give any protection in cases of manifest bad faith; and that if such cases are found to have occurred the people will be dealt with properly. Even today in spite of the long rope given to officials by virtue of the Defence of India Rules we have seen some cases in Bengal where some of the highest officers, officers who were supposed to be incorruptible in the previous days, were found to have gone to the depths of degradation; and some such cases saw the light of day. And if Government at that time could not bring to book a large number of such officials it was because at a time when the empire was tottering Government did not care whether officers were honest or dishonest but were interested merely in winning the war. Therefore the bulk of dishonest officials went scot-free; and it was only some dishonest people who on account of a somewhat smaller stock of intelligence in them exposed themselves. But this Government should be entirely different; and I hope it will be possible for the Commerce Member to give an assurance to this House, and through this House to the people outside and to the officials concerned that just as *bona-fides* will be protected similarly anything wrong will be attacked by all possible means.

**The Honourable Mr. I. I. Chundrigar:** Sir, I thank my Honourable friends Mr. Sri Prakasa and Mr. Sanyal for the compliment they paid to me. I can assure them that one of the first inquiries which I made on taking charge of the Commerce Department was whether there were any monopolies. There are no monopolies in the Commerce Department and in future also none will be allowed to be created. That is an assurance which I can unreservedly give to my Honourable friend Mr. Sri Prakasa.

On the second point mentioned by him *i.e.*, what is to happen to the goods confiscated for a breach of the provisions of the Sea Customs Act or this new law, the answer is very plain. If certain goods are ordered to be confiscated to Government, they become the property of Government and Government can utilise them in any manner that they think best. They might in particular cases dispose them off in the country, in others they may take another view and ask them to be taken back to some other place or they may pass any other suitable order for their disposal. But once the goods are ordered to be confiscated, they cease to be the property of the importer and Government become the owner of the goods and they can pass such orders as they think proper, looking to the circumstances and to the use which can be made of the goods.

Then my Honourable friend Mr. Sanyal referred again to his views about the interpretation of clause 7. From my little practice at the bar—and also according to the Honourable President who was an eminent member of the Ahmedabad bar—I can assure him that we feel that our reading is correct. But for his satisfaction, and not for mine, I am prepared to have the case re-examined.

Then he said that honest officers should be protected and clause 7 should rightly give them protection in cases in which they have acted in good faith, namely, with due care and caution; but in other cases there should be no protection. I am prepared to make a public declaration in this House that any officer in the Commerce Department who is found to be corrupt shall not be spared and that strong action will be taken against him.

I feel, Sir, that this legislation is very necessary at the present moment when due to the combination of several factors we are in a stage of transition from war time economy to peace time economy. And without the powers which this Bill purports to confer on Government it will be impossible to main-

tain the economy of the country. These powers are essential and Government will take every care to see that the powers are not abused.

**Mr. Deputy President:** The question is—

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

The motion was adopted.

### DELHI AND AJMER-MERWARA RENT CONTROL BILL

**M. B.K. Gokhale:** (Government of India: Nominated Official): Sir, I move:

“That the Bill to make better provision for the control of rents in certain areas in the provinces of Delhi and Ajmer-Merwara, as reported by the Select Committee, be taken into consideration.”

Sir, I should like to take this opportunity to thank all the Honourable Members of this House who served on the Select Committee and who laboured very hard and considerably improved the Bill. The Select Committee sat on a large number of occasions and both while we were sitting in Committee and while we were outside, they must have been inundated with numerous representations from all quarters; I think it was very brave of them to go through that ordeal and make all the useful amendments which are now before the House.

Sir, I would now like to explain a few of the important changes which have been made in the Select Committee. But before doing so, I would like to refer to the cardinal point on which I laid stress when referring this Bill to the Select Committee, that nothing that we did here should in any way discourage private house building activities, because that after all is the real solution to the problem of acute shortage of housing in Delhi. It is not rent control which is going to provide the solution; rent control is only a palliative, a temporary measure; the real and ultimate solution is private house building activity. So perhaps I had better begin by explaining what we have done on this point. The Select Committee has made it perfectly clear that nothing in this Bill shall apply to any premises the construction of which is completed after the commencement of this Act, *i.e.*, any buildings which will be completed hereafter will be entirely exempt from any of the provisions of this Act, whether as regards the amount of rent to be charged or as regards eviction of tenants or on any other question. The relationship of landlord and tenant as regards these new building will be solely governed by the ordinary law of the land.

**Sri S. T. Adityan** (Madura and Ramnad *cum* Tinevelly: Non-Muhammadan Rural): Unless another Bill is introduced.

**Mr. B. K. Gokhale:** Sir, I cannot vouch whether any such Bill will be introduced, but the present intention is that nothing in this Act should affect new buildings.

Another method by which we have helped to a certain extent in providing incentive to private building activities is by certain amendments to clause 10 by which any vacant sites whether attached to residential buildings or to non-residential buildings will be made available for private building activities.

There is still another way in which I feel that we have encouraged private building activities; and that is by steering a middle course between the conflicting interests of landlords and tenants, by trying to be fair to all concerned and by not taking unfair advantage of the situation. We do not want the landlords to feel that this is an expropriatory measure by which they are being penalized and that possibly after another few years there may be another Bill, as my Honourable friend apprehends, by which buildings which have now been excluded from the scope of rent control will be again brought under rent control and landlords will be penalized for all the buildings which they put up hereafter. Requisitioning is bad whether it is for Government or on behalf of tenants or sub-tenants, and that is really what we are up against—we are considering requisitioning not for Government but for tenants and sub-tenants—and therefore it is very necessary that we should steer a middle course and see that the landlords do not feel that they have been unduly penalized. That Sir, I feel is our biggest contribu-

sion to encouragement of private buildings. I would like to emphasize that the Bill should be judged as a whole against this background.

I will now go on to some other points. The most important, of course, is the question of rent. The original Bill proposed an increase of 33½ per cent. on the previous rent and a further increase of 25 per cent. in the case of business premises. The idea was that landlords should get something substantial in return for all the controls which were going to be placed on their other activities. The Select Committee has fully appreciated this point of view, but has improved on the previous *ad hoc* decision, so to speak, by providing a graded increase in rent. They have kept in view cases of poor tenants who are paying a very low rent, and who also deserve protection. From that point of view and also keeping in mind the increase in the cost of maintenance, repairs and other charges, the Select Committee has given a graded increase in rent, beginning from 2 annas in the rupee where the rent is up to and below Rs. 25 a month; As. -/2/6 per rupee for rent between Rs. 25—Rs. 50; 3 annas in the rupee between Rs. 50—Rs. 100; and 4 annas in the rupee where the monthly rent is over Rs. 100. All this is for residential premises. For non-residential premises, the increase is twice this amount. The increase is over the rent as it existed in 1939—that was a point which was very prominently brought out in this House that the basic rent should be not the rent as it existed in November 1946 but as it existed in 1939—and the Select Committee has accepted that point and given increased rates over that basic period or over the rent as may have been fixed by the Controller, as the case may be. But again we made one very material alteration, and that is that rent which was fixed for the first time after the 2nd June 1944 would remain exactly the same as before. There will be no increase on that rent. The idea behind this is that conditions had changed by the 2nd June 1944. The housing problem had already become acute and buildings which were let out for the first time after June 1944 must have been let out at a higher rent, and therefore there is no justification for any further increase on the rent fixed after June 1944. This is with regard to Delhi.

Now, Sir, I come to Ajmer-Merwara. I have seen some criticism in some quarters that the graded increase in rent for Ajmer-Merwara is slightly higher than for Delhi. For that proposition, there is no justification whatsoever. The graded increase in rent for Ajmer-Merwara is slightly lower in the lower categories. For instance, up to Rs. 25, the increase in rent in Ajmer-Merwara is only 1½ anna in the rupee against 2 annas in Delhi; between Rs. 25—Rs. 50 the increased rate in Ajmer-Merwara is 2 annas in the rupee against As. -/2/6 in Delhi. On other points, there is no difference in the manner in which we have treated Delhi and the manner in which we have treated Ajmer-Merwara. We were told in this House that the Ajmer-Merwara Control Order which was issued in November 1946 had given general satisfaction, and that there were no complaints against that order. The Select Committee very rightly decided that we should embody in this Bill the percentages as laid down in that Order, of course with slight modifications. I hope that this decision will give general satisfaction.

I now come to the next important question, or rather the most important question judging from the number of amendments which have been tabled in this House—I mean the question of eviction. Here a large number of amendments was made in the Select Committee, and I have no doubt that the matter will again be vehemently discussed on the floor of this House and I expect that a few more improvements and modifications might be made. The position of Government, as I explained on the very first day when I moved for reference to Select Committee, was that they were only committed to the principle of rent control, but would be guided on all other matters by the wishes of the Select Committee and the wishes of the House. That posi-



[Mr. B. K. Gokhale.]

tion still remains the same. Now on this question of eviction, the main point which engaged our attention was of course the question of sub-letting. Should we stick to the letter of the law and make a large number of people who are at present living in Delhi homeless? Should we drive out all these people and leave them either to quit Delhi or go and stay under trees or make some other *bandobast*? The Select Committee rightly decided that so far as sub-letting was concerned, whatever had happened so far should be validated: that nobody who had taken a sub-lease of residential premises should be evicted, whether the landlord had agreed to the sub-lease or whether he had not. We decided that this Bill should definitely say that nobody should be evicted from residential premises. As a necessary corollary, the Select Committee has made certain amendments by which in all such cases, the landlord will be able to get a slight recompense in the shape of extra rent. The Select Committee has recommended that the landlord should be allowed to get increased rent for the portions sub-let, at the rate of two annas in the rupee and I think that is a very fair solution of this very difficult problem.

The question of giving protection to the sub-tenant as against the tenant naturally cropped up and the Select Committee decided that where the sub-tenant is being charged extortionate rent, that rent must be reduced. They have laid down that the tenant may only charge the sub-tenant 25 per cent more than what he is paying to the landlord for the portion sub-let. This really means that the sub-tenant has now been given a double protection. He is not going to be liable for eviction and his rent will be limited to 25 per cent over and above the rent which the tenant is paying for the portion which has been sub-let. Out of this 25 per cent of course, half goes to the landlord and half goes to the tenant. That, I think, Sir, is a very fair solution.

Now, having validated sub-leases up to date, the next two questions were: What shall we do about people who had parted with the entire building, or the entire premises i.e., sub-let or transferred the entire tenancy? There the Committee decided that no such cases should be recognised: that where the entire tenancy has changed hands, the tenant should be evicted. The same decision was reached as regards the future: that in future no sub-letting should be allowed except with the consent of the landlord.

I will not go into future details on this point. There are only five minutes left and I wish to finish my opening remarks today so that we may get on quickly with this Bill.

I would next like to mention one other provision: namely, the provision for repairs. There have been numerous complaints that landlords have been neglecting repairs and that many buildings are now in a very insanitary condition: they are almost uninhabitable. We have included a provision by which the responsibility for repairs is laid fairly and squarely on the landlord. And there is also a provision that if the landlord neglects these repairs, a tenant can himself cause the repairs to be effected and deduct from the rent payable to the landlord an amount not exceeding one month's rent in any particular year.

The clause about penalties has also been tightened up. There was a persistent demand in this House for provision of imprisonment and the demand has been met. The Honourable Members will no doubt be glad to see that the Select Committee has tightened up this clause and considerably enhanced the penalties which could be imposed. And rightly enough we have not limited these penalties to landlords. The penalty clause is all-embracing and includes landlords and tenants who take *pugree* or any illegal rents or exactions. It also includes tenants who want to be bribed for relinquishing their tenancies. Even that evil we have tried to meet as far as possible.

Next we come to the question of litigation. The original provision was for reference to Civil Court. The Select Committee felt that that would be too dilatory and as this is a temporary measure, it was better to provide a more expeditious method of dealing with cases arising under this Act. The Select Committee has therefore decided that all suits and anything else arising out of this Act, should be dealt with by a Court of Small Causes. I hope there may be no difficulty in having the necessary number of Small Cause Court Judges in Delhi and Ajmere-Merwara and that the procedure now proposed will be found satisfactory and expeditious by all concerned. I must confess that I feel very diffident about the absence of any provision for appeal, particularly in respect of eviction cases. But I notice that there is definitely an amendment for provision of appeal to the District Judge particularly in all cases of eviction, and I hope when this amendment comes up before this House, it will probably be accepted by all concerned.

The only other point to which I need refer is the much debated clause 11 under which Government wanted power to take leases of vacant premises. . . .

**Mr. Deputy President:** The Honourable Member may continue his speech to-morrow.

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INCOME-TAX AND EXCESS PROFITS TAX (AMENDMENT) BILL  
[PRESENTATION OF THE REPORT OF SELECT COMMITTEE.]

**Mr. Deputy President:** The Finance Member will now present his Select Committee report as promised in the morning.

**The Honourable Mr. Liaquat Ali Khan** (Finance Member): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922, and the Excess Profits Tax Act, 1940.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 20th March, 1947.