

Volume I

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Tuesday

12th August, 1952

# PARLIAMENTARY DEBATES

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## HOUSE OF THE PEOPLE

### OFFICIAL REPORT

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(Part II - Proceedings Other than Questions and Answers)

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PARLIAMENTARY DEBATES

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(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

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HOUSE OF THE PEOPLE

Tuesday, 12th August, 1952

The House met at Nine of the Clock.

[Mr. Deputy-Speaker in the Chair]

QUESTIONS AND ANSWERS

(No Questions: Part I not published)

9 A.M.

FORWARD CONTRACTS (REGULATION) BILL—concl'd.

**Mr. Deputy-Speaker:** I have put the motion to the House. Now, discussion will take place on further consideration of the motion moved by Shri T. T. Krishnamachari. **Mr. Bansal.**

**Shri Bansal (Jhajjar-Rewari):** I am afraid not much remains to be said after the brilliant introduction of this Bill by the Commerce and Industry Minister. I would, however, like to refer to one or two changes that have been made in the Bill as different from the report of the Select Committee of the Provisional Parliament.

As the hon. Commerce Minister said, the Bill remains substantially the same as was reported by the Select Committee. Whatever changes have been made are in regard to the composition, powers and functions of the Forward Markets Commission. I find that but for the provisions relating to the Commission, all the other provisions remain the same, and I was wondering why the functions and powers of the Commission have been whittled down. The Commerce and Industry Minister yesterday explained that as the Commission was going to be an adjunct of the Department, i.e., of the Ministry, there was no need to define its specific powers in the Act itself. I have been going through his

speech while the Forward Market Bill was introduced in the provisional Parliament, and one reason which he had then given for suggesting the abrogation of the powers of the Commission in the Act was that if the powers of the Commission are defined in the Act itself, then it may lead to some juridical disputes. In his own words, he mentioned—I would read from the speech he had then made:

**Mr. Deputy-Speaker:** No long extracts ought to be quoted.

**Shri Bansal:** Just two sentences, Sir.

**Mr. Deputy-Speaker:** All right.

**Shri Bansal:**

“Practically every recommendation made will be a matter of ultimate juridical decision, and nothing but uncertainty will prevail, and the only persons who will benefit are those Associations with powerful vested interests behind them which are recognised by Government and nobody else.”

I do not think that that fear is very well founded—if that is the reason which has weighed with the Commerce Minister even now—because we know there is the Tariff Commission, that is a statutory body. I have not heard of any case going to a Court of Law on the recommendations of the Commission or on the decisions of Government based on the recommendations of the Tariff Commission. And if the hon. Commerce Minister apprehended that, it could be more easily safeguarded by putting a sentence in the Act itself that none of the recommendations or the decision of Government would be a matter of juridical dispute. But what I cannot understand is forming a Commission, and not giving it any power. If the Commerce Minister feels that there is no need for any powers, then I would very humbly suggest that there is no need for the Commission. I am not strongly recommending that there

[Shri Bansal]

should be a Commission, but if there is a Commission, it should have some powers.

After having said this, I would refer to one or two small anomalies that appear in this Bill. We have passed the Essential Supplies (Temporary Powers) Act yesterday. Now, under that Act, forward trading is prohibited. This Forward Contracts (Regulation) Bill will make forward contracts valid which means that first Government have to declare by a Notification under the Essential Supplies (Temporary Powers) Act that forward market in a particular commodity can be carried on, and after that the provisions of the Forward Contracts (Regulation) Act will be applied. Now, this is, in my opinion, unnecessary. What could be easily done is we could have a clause in the Forward Contracts (Regulation) Bill saying that notwithstanding anything contained in that Act, i.e. Essential Supplies Act, the provisions of this Act will apply after the passing of the Forward Contracts (Regulation) Bill. This is one thing.

Then, the other point is that as we know, foodgrains, oil-seeds, cotton etc. are State subjects, whole forward marketing in these is a Central subject. Now, that is again an anomalous position. I know that for the time being, i.e. up to March, 1955, Government have taken powers to regulate all these commodities but what would be the position after 1955? After all, the fact remains that all these commodities in which forward market is generally carried on are State subjects, and there is bound to be some kind of overlapping and a lot of confusion if these two subjects remain in different spheres. I have no ready-made solution. I am just pointing out this danger and I should think that the hon. Commerce Minister, while referring the whole position to the Committee which he promised yesterday, will also refer this question.

Then, this Bill prohibits options, I have no very strong views about options or forward markets. If it is a matter of policy with Government that they should not allow options, then I have nothing to say. But I would respectfully suggest for the consideration of the House that after all forward market is forward market whether it is carried on by option or delivery contracts. Now, it is true that in option there is a greater danger of smaller people coming in and speculating. But do you want to

make forward trading a monopoly of the bigger men? I feel that there is some element of contradiction in what the Commerce Minister himself said yesterday. After all, if you are going to have only forward markets with a regular membership then, I am afraid the whole forward market trading will go into the hands of very big people. We in this House have been showing great solicitude for the small trader. Now, if we have no options, because in options a man can speculate over a small margin we will be creating a monopoly. My humble suggestion is that instead of completely prohibiting options, it could be regulated in the same manner or perhaps in a more stricter manner than forward trading, but to give away option trading altogether will be eliminating the smaller men from the trade. Again, I have no strong views on this question, but this point I would like the Commerce Minister to consider. I will not take more time of the House. After all, the Bill is going to the Select Committee where all these questions will be thrashed out.

**Pandit Munishwar Datt Upadhyay** (Pratapgarh Distt.—East): Forward trading has been going on in the country for a long time, and up till now there has been no attempt to control or regulate forward markets by legislation on an all-India basis, and as a matter of fact, there is no rule or regulation for control and regulation of these markets in the country. There is almost anarchy in the country in respect of the discipline that should be maintained in such markets. An attempt was made in Bombay some time ago, where they have the Forward Contract Control Act of 1947, but the necessity for regulation of these markets was felt during war time, and under the Defence of India Rules we tried to control the market in respect of certain essential goods. But when this new Constitution was adopted in 1950, it was considered necessary to frame legislation for the control and regulation of these markets and a Bill was drafted. That Bill was referred to an Expert Committee for consideration, and the Bill that is before us is almost based on the recommendations of that Expert Committee. But if we are really to understand the scheme behind this Bill, we have to see the recommendations of the Expert Committee on the basis of which this legislation has been framed. We find in this Bill that the control and regulation of these markets is proposed to be done through recognised associa-

tions—associations recognised by the Central Government. But these recognised associations have been given a very prominent position in the whole scheme of this legislation. There, for instance, is a provision in the Bill to the effect that a copy of the rules and bye-laws by which these associations are to be governed shall be submitted to the Government at the time the association is making an application for recognition. All these rules and bye-laws are accepted by the Government in almost the same condition without much modification, and these associations control the forward trading markets and also the business inside such markets. They frame the rules and bye-laws in respect of the constitution and function of their governing bodies also. They also make rules for the admission of associations or individuals to the recognised associations. So, as a matter of fact, they control wholly the policy, constitution, control, regulation and everything in respect of the recognised associations and in respect of the business that is carried on in these forward trading markets. From these, we can very well understand that if the framing of the rules and bye-laws for the control of forward trading markets is left to certain individuals who are naturally interested in it, and who are said to have experience of the business in such markets then the result would be that other competitors who want to participate in the business shall have no chance or opportunity to do so. And the rules as they are suggested to be framed by the expert committee are that all these smaller associations or a number of associations working in a particular area in respect of a particular commodity shall be amalgamated. There shall be only one recognised association and it is through this recognised association that the business in that commodity in that particular area shall be carried on. That gives a controlling hand to these associations. But it is no wonder that our legislation is based on the recommendations of a committee which is composed of experts in the business, who had experience of this business, and who had been dealing in these markets, and as such are interested in the business also.

I would take a minute or two to refer to the recommendations of that Committee, because that might give us a clear idea of the shape of the legislation before us, which is based on the recommendations of that Committee. The first suggestion, that I would mention, and which was made by the Expert Committee is as follows:

"Since the whole system of control here is located on the

unitary organisation of the trade, that is to say, the existence of one recognised association through which the control is exercised, it will first be necessary to amalgamate all the relevant trading associations in a particular area, should they be more than one in number, into one comprehensive association."

So the object is that there should be only one comprehensive association which should be recognised and the entire business should be carried on through that association. The second sentence that I would like to read from the report is this, where they also propose that these associations—their powers and authorities should be enhanced so that they should have a very prominent position in the business of such markets. They say:

"In some of the particulars to which this measure will be applied, there already exist powerful associations having considerable influence with all the important sections of the trade, and one of the primary objects of this measure should be to maintain and enhance the authority of such associations, limiting government intervention only to examine in extreme exigencies."

So the aim of the Expert Committee is to exclude competitors and to have only one association of these big commercial magnates of the forward trading markets, and to see that the government interference is also almost precluded. Another very relevant sentence from the report is as follows:

"It is so framed as to have the maximum possible co-operation from the business community. One of the cardinal principles of this legislation must therefore be to cause the minimum inconvenience to legitimate business activities. It must at the same time provide sufficient safeguards against arbitrary or ill-informed action."

Then it is said:

".....Therefore the knowledge that the government will have will remain ill-informed unless that knowledge is also corroborated by the suggestions, by the recommendations and by the consultations of these experts in the business."

As a matter of fact, they propose that the entire regulating and controlling hand should be that of the associations. Then they have referred to a commission which is the chief feature of

[Pandit Munishwar Datt Upadhyay]

the legislation before us. They have referred to the constitution of these commissions and say:

"The Commission should consist of a Chairman and two members, one of whom should be an officer of the Government of India in the Ministry of Commerce, and the other a person having wide experience of the organisation and working of forward markets in the country."

So one of the persons shall be a servant of the Central Government, while the other being a person with wide experience of these forward contract markets, is bound to have some connection direct or indirect with the persons who are interested in this business, for whom he will have some sympathy. So, we find that this recommendation of the Committee also goes in the same direction. Another sentence that I would like to read from that report is this:

"In taking any decisions in respect of these associations, they should invariably seek the concurrence of the proposed commission in the exercise of such powers .....it is essential that such ruling should be given by or in consultation with a body like the proposed commission."

If the government has to give ruling in any case, they have to consult the commission, or the ruling has to be given by the commission itself.

So, if these are the recommendations on which our legislation is based, we can very well imagine what shall be the shape of that legislation, and what will be the nature of the forward trading markets. In view of these recommendations, it is not very strange to find that the whole scheme of this legislation is such that it gives an idea of the dominant position that has been given in this business to certain interested people and certain commercial magnates, who have been controlling this business, and have been trying to oust those smaller people who try to enter the market now afresh. So, the scheme of this legislation is that there shall be a recognised association which will frame the rules and bye-laws in connection with the forward trading markets; it has also been provided that in case they fail to frame the rules within the time prescribed by the Government, then the Government will frame the rules; even then the Government will have to get the agreement of those associations, without which the rules framed by them will not be valid.

I mean it is an extraordinary provision.

Then there is another provision also which points in the same direction. That provision is that if any inquiry is to be made in respect of any irregularities committed in the working of these associations, inquiry in respect of any contravention of the rules, inquiry in respect of any corruption etc. it shall be made by the governing body of the association. It is really a part of that association. That the inquiry should be left to the governing body would be very unfair, Sir. So as it appears the controlling hand has been left to these associations, which is not very fair. In fact, the rules and regulations and the controlling hand are left to the persons who are interested in the business.

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** May I point out to the hon. Member that he might read again clause 10, sub-clause (2)? He will find that unless there is full agreement, the Government's order on the subject will be strictly enforced.

**Pandit Munishwar Datt Upadhyay:** Of course, the Central Government has the power to overrule that matter. But, as I submitted, the associations will be the dominating feature of this legislation. This legislation is more or less based on the Bombay legislation of 1947, except that two additional proposals have been made, one the appointment of a Commission and another, the appointment of an Advisory Committee. The main function of the Commission as given in clause 4, is to advise the Central Government in respect of the recognition of, or the withdrawal of recognition, from any association or in respect of any other matter arising out of the administration of this Act. "Any other matter arising out of the administration of this Act"—this is the main thing. Of course, besides this, in respect of recognition and withdrawal of recognition, they shall be consulted. As we find in clause 25, the function of the Advisory Committee is to advise the Central Government in relation to any matter concerning the operation of this Act. So there the Central Government may establish an Advisory Committee consisting of such number of persons as may be prescribed. The function of the Commission is "to advise.....in respect of any other matter arising out of the administration of this Act" and that of the Advisory Committee is to give advice in respect of any matter concerning the operation of this Act. This

is the only difference between these two. The hon. Minister while speaking yesterday said that the Commission would be a small compact body under the Government and it would be part of the Ministry. I can well understand that. There is an expert on that Commission also and advice in respect of the administration of the Act is to be taken from the Commission. I think that this Advisory body then becomes absolutely unnecessary. It is unnecessary that it should be consulted 'on any matter concerning the operation of this Act'. There is not much difference between the two and I would think it is no use having two such bodies. That is what I wanted to submit in respect of this duplication.

The composition of this Commission, as we find is that one of the Members shall be an official and the other shall be an expert in the business, a person who is acquainted with the ins and outs of the business. So there too we find that a person who is concerned with the business is on the Committee. It is not necessary that there should be three persons. There may be three persons, it should not be more than three and should not be less than two. There are bound to be at least two persons and they are to be whole timers. I would submit that from the composition of this Commission as given here, it appears that the persons who are interested in the business shall have a dominating hand.

So, considering this provision, I would submit that the Bill, as it has been placed before the House is not very much in the interest of the smaller traders, nor in the interest probably of discipline and control also that we mean to introduce over these markets. In these observations, I am supported by no less a person than the Mover himself. Last year when the hon. Member spoke on this Bill, he pointed almost in the same direction. As he knows the subject very well and as he is intimately acquainted with the working of these markets, I think his opinion should have value. I think even as the hon. Minister spoke yesterday he referred to the wording of his speech that he made last year before the House and he said that his mind was still open. He said that last year he had criticised the Bill on certain grounds.

**Pandit A. R. Shastri** (Azamgarh Distt.—East cum Ballia Distt.—West): But he has changed place now.

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**Pandit Munishwar Datt Upadhyay:** There might be some circumstances. Last year when he spoke, I agreed with him; I spoke just after him and supported him. I said that the hon. Member's criticisms were very much justified and I also added certain suggestions. I would just read only a sentence or two of his speech. It is in column 7345.

"The motive behind the Committee is this. It is a Committee which is composed by and large, as I said, of vested interests, of people who firmly believe in the doctrine of *laissez-faire*—that the Government should not interfere in private economic activities".

And then he goes on to say:

"The attitude of that Committee, as I said, is typical of vested interests in this country who want Government aid for carrying on their own activities and to prevent competitors from entering into their own special field....."

That position was quite correct.

**Shri T. T. Krishnamachari:** I still hold that view.

**Pandit Munishwar Datt Upadhyay:** The hon. Minister says that he is still of that view. It is only in view of these circumstances that I have made my submission.

Again he said:

".....the only persons who will benefit are those associations with powerful vested interests behind them which are recognised by Government and nobody else".

That is the scheme of this legislation. There has not been much change. Then, one or two sentences more and I shall have done with it. He goes on to say "that the regulation of the market economy undoubtedly means the creation of a monopoly"; and again he says, "If you enact a Bill in which only the rich people can do what they like and the poor man cannot function, I think it is a thing which will go against the grain of democracy." Lastly, he suggested that it was better that the Bill be dropped. He said, "If they find that that provision would be irksome or as the Expert Committee puts it, Government is incapable of either understanding the difficulties or providing the machinery for the purpose of regulating trade, the best thing for my hon. friend is to drop the Bill altogether".

As regards the dropping of the Bill I would not suggest it because the Bill

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is very necessary and the conditions laid down by the hon. Mover while speaking as a private Member last year will now be fulfilled. The Bill tries to regulate the market where there is no regulation, where there is almost anarchy. My submission is that the provision which has been made in respect of option in goods is not desirable. Last year as a private Member, the hon. Mover criticised it and said that poorer people are excluded on that account. That exclusion will take place in case this provision in respect of option in goods is enacted here. Therefore, that portion should be left out and the option in goods should also be allowed.

Lastly I would submit that as the entire purpose of the measure before the House is to control and regulate the markets which have not so far been controlled, there should be a very sound and a very capable machinery for the purpose. To depend upon the commercial magnates who have been the persons taking interest in these markets, for advice, for concurrence or for consultation in the matter of such regulation and control will, I am sure, not yield much good out of this legislation.

Shri A. M. Thomas (Ernakulam): I generally welcome the measure which has been introduced by the hon. Minister with a very instructive speech which is altogether different in tone and content from the speech made by him last year as a private Member when a similar motion was introduced in the Provisional Parliament. I come from a part of the country which has enjoyed the advantages and suffered the disadvantages of forward trading. Forward trading is an usual practice of trade in spices as well as in coco-nuts in our State, and I represent a constituency in which Cochin, the main oil market of our country is situated. Trading in futures has played a very useful part in keeping up price levels and preventing price fluctuations. At the same time it has to be admitted that it has done a great deal of harm also to the trade in oils as well as spices. The investment which many of the people who trade in futures consists of only a typewriter and a few pieces of foolscap paper and with that they deal in lakhs. The result is that when in the District Courts situated in or near the commercial towns having insolvency jurisdiction, the petitioner is examined and asked to explain how he has incurred so much debt the straight answer will be, "I have incurred the loss in *satta*". Forward trading there,

is usually known by the name of *satta*. Sometimes it proves to be nothing but a sort of gambling. But at the same time it has to be admitted that forward trading is indispensable in *copra* and spices business. In *copra* trade, for example, the supply is not regular in certain seasons and to provide against scarcity at such times forward trading has necessarily to be resorted to. A Bill of this nature regulating forward trading and prohibiting option in goods is therefore a necessity to prevent the mischief wrought by undue speculation or rather reckless speculation in forward trading the Central Government has invoked its powers under the Essential Supplies (Temporary Powers) Act. At first forward trading was prohibited in oilseeds, oils and certain other articles only in Part A States. Later on this prohibition was extended to Part B States also. Since the prohibition now exists in both Part A and Part B States it is not possible to protect the interests of the milling industry by resorting to forward trading and healthy practices that do obtain in trade cannot now be carried on at all. My submission, therefore, is that a Bill of this nature has to be passed with as much speed as possible. The wisdom of preventing forward trading altogether without bringing a comprehensive legislation of this kind has even been doubted.

I prefaced my remarks by saying that the hon. Minister's speech this time is altogether different in content as well as tone from his speech as a private Member last year. Some of his remarks made last year have already been referred to by some of the previous speakers. The keynote of the report of the Expert Committee has been that in some of the trades to which this measure will be applied, there already exist powerful associations having considerable influence with all the important sections of the trade. One of the primary objectives of this measure would be to maintain and enhance the authority of such associations limiting the Government intervention only to the extreme emergencies. With regard to this approach made by the Expert Committee the hon. Shri T. T. Krishnamachari, as he then was, said:

"They want regulations but at the same time they do not want the Commission to do this or that. They want the Government to interfere whenever they feel that associations are not doing the proper thing, but at the same time

they want to put a check on the activities of the Government in that regard..."

I was amused to find that several of the criticisms then made by the hon. Member are equally applicable to the very same Bill brought by him now as an hon. Minister. He had very unkind words to offer then to the hon. Minister of Commerce who introduced the Bill. He characterised the Bill as controversial on the face of it and said it had been very badly drafted. Those were the remarks made by the hon. Member then against Shri Mahtab, the then Commerce Minister. My hon. friend said that he did not think that the hon. Minister even took pains to go through the Bill and that he would have been advised solely by his secretariat. That was why I was amused to find that several of the defects pointed out by my hon. friend then still find a place in this Bill. For example, my hon. friend complained against a Commission without any specific powers or duties outlined for it. He also said that a very expensive machinery was being envisaged and he asked who was to pay for it.

**Dr. N. B. Khare (Gwalior):** On a point of order. What is the occasion for this laughter?

**Mr. Deputy-Speaker:** The hon. Member has entered into forward contract.

श्री इशामनन्दन सहय (मुम्बई) : वदलता है रंग आसमां कैसे कैसे ।

**Shri A. M. Thomas:** I do not ignore the fact that in clause 28 of the Bill it has been stated that the Central Government can make rules for carrying out the objects of the Act and the rules will cover the manner in which applications for recognition may be made and also the levy of fees in respect thereof. I do not think that the fees which will be realised would be enough to meet the expenses that will have to be incurred.

**Mr. Deputy-Speaker:** There is too much talk in the House.

**Shri A. M. Thomas:** Another criticism that my hon. friend had made was...

**Shri Syamnandan Sahaya:** Did he say wonderful friend or hon. friend?

**Shri A. M. Thomas:** I did not say wonderful friend. I am not the person to use such expression.

My hon. friend stated then that the existence of a Contract Act and the

Sale of Goods Act, the usages followed by people who normally carry on future trading for the purpose of covering price fluctuations and entering into contracts—fixing the price for future delivery—all these things had been ignored. He also criticised the constitution and functions of the Commission and said that they had been vaguely mentioned. He had very serious objection to the use of the word "reasonable". The provision reads, "If the Central Government is of opinion that any recognition granted to an Association under the provisions of this Act should in the interests of the trade or in the public interest be withdrawn the Central Government may, after giving a reasonable opportunity to the Association to be heard in the matter..." My hon. friend had objected to the word "reasonable". I do not understand why that same word occurs in this Bill, which has been brought by him. My hon. friend was against consulting the Commission before any step was taken, because it was already a consultative body and only delay and obstruction would result from consultation. If an opportunity was given to an Association to amend the rules and if it did not do that, then Government had the power to amend the rules in consultation with that Association. My hon. friend asked why a refractory organisation should be consulted.

My submission is this, Sir. I am only reminding the hon. Minister today of what he had said previously. The criticisms and general remarks offered today, I submit, may be gone into by the Select Committee so that as far as possible normal trade would not be disturbed. There must be facilities for new entrants to organise associations and to business in these articles. The nature of the articles to which this legislation may be applied may be hinted at in the Act itself. A list of the articles can be given, as we have done in the case of the Essential Supplies (Temporary Powers) Act. I do not think there will be any difficulty in cataloguing the articles in which usually forward trading is carried on. We should not leave the matter to the discretion or the sweet will and pleasure of the Government concerned. The list should be formulated by the Parliament itself.

With these observations, I welcome the measure in general and I do hope that the defects and drawbacks which we do see in the Bill will be removed by the Select Committee.

**Shri A. C. Guha (Santipur):** The present Bill has undergone many a

[Shri A. C. Guba]

metamorphosis. This is the third version. The first version was not presented to this House but was circulated for the purpose of eliciting public opinion and the opinions received were placed before an Expert Committee and on the recommendation of that Expert Committee the Bill was withdrawn. The Bill at that stage had altogether a different name. It was called the Future Markets (Regulation and Control) Bill. Last year a new Bill was placed before this House and it had a mixed reception. Some of the previous speakers have already referred to the criticism levelled by the present hon. Minister against that Bill on that occasion. I can only join with my hon. friend Shri Algurai Shastri and say. प्रस्थान भेदात्

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i.e. with the change of place there seems to be a change of outlook. Our valient colleague Shri Tyagi also some days ago made a similar confession and said that with his change from this bench to that bench there had been some considerable change in his outlook and opinions. So, there is nothing strange in this.

**The Minister of State for Finance (Shri Tyagi):** My hon. friend must get ready for a change.

**Shri A. C. Guba:** No, Sir.

As regards the subject matter of this Bill. I think the most controversial portion is Chapter IV. The two States most interested in this matter are the Governments of West Bengal and Bombay. Although I have not been in business in the real sense, since I have been having my residence in Calcutta for many years I have had occasion to know some of the evils of what is known as *Fatka* or speculation. Regular markets are going on in which there is hardly any exchange or delivery of goods. There is simply an exchange of papers or exchange of words and crores of rupees are being handled there. Two of the previous speakers have referred to smaller people entering into this market. I suggest that the middle class and poorer section of the community should avoid this market, at least as it is going on at present.

I understand and appreciate the necessity for forward contracts. Today there is no national economy in a strict sense. It is always an international economy and things have to be done always in the context of international supply and demand. One definite feature of the international market today is the dearth of raw

materials. In order to ensure continuity of supply and also stability in prices of cereals and industrial raw materials, there should be some arrangement and some accommodation for forward contracts. This will enable the industrialists to know that they may be sure of the supply of raw materials for some months to come and also of the prices at which they will get the raw materials. But there are certain other varieties in which there is no exchange of goods and these are known as options. In this Bill that has been definitely prohibited and I think that is the best feature of this Bill. One hon. Member was arguing in favour of this Bill. I do not know whether he knows what evils the option markets have been creating in the life of the individual as also in our economic structure.

As I said before, the first draft Bill was not placed before the House, but was withdrawn after circulation and replaced by another Bill. That Bill was referred to a Select Committee. But before the Report of the Select Committee could be considered by the House, it was dissolved. So that Bill lapsed. Naturally the Ministry cannot come forward with an altogether new Bill. It must proceed on the report of the Select Committee.

One special feature of this Bill is the creation of the Forward Markets Commission. The structure of the Commission as envisaged in this Bill is almost the same as it was in the Select Committee Report. Only, there is mention of a particular member being appointed as Secretary. As the hon. Minister has stated in his opening speech, this body will function more or less as a section of the Commerce and Industry Ministry. The Commission will be more or less an official body. It has been provided that one of the members of the Commission should be an officer. I would like that the Secretary should be an officer and the Chairman, as provided, should be a wholetime man. So to all intents and purposes the Chairman will be an officer while holding the office of the Chairman.

As regards the third member, if the Government wants to have a three-member Commission, it has been provided as it was in the Select Committee Report last year, that the third member should have some experience of the forward markets. But here the wording has been changed. I do not know what is the purpose of this change in the wording. In the Select Committee Report the wording was

"another person having a wide experience in the organisation and working of the forward markets in India". The wording in the new Bill is "another person having a knowledge of forward markets in India". The words "having wide experience in the organisation and working" have been substituted by the words "having a knowledge of". I may in this connection say that in the Select Committee we were not happy about having a man from the market on this Commission. It should at least be provided that while holding the membership of the Commission, he should not have anything to do with the forward markets and it should be definitely laid down that the man must have retired before being appointed a member on this Commission. But nothing is mentioned here. I hope that Government may provide for it in the rules which will be framed by them.

As regards the functions of the Commission one new item has been added—it will undertake "inspection of the accounts and other documents of any recognised association when directed by the Central Government". This is a step in the right direction. It is very necessary that the accounts of the recognised associations should be checked and supervised.

Then clauses 15 and 18 say that this "Act shall apply to such goods and classes of goods and in such areas, etc." But in section 4(c) we have only said "in respect of goods", but not in respect of such areas. This Act will not apply to all the goods in all the areas. I think it should also be mentioned in clause 4(c) that the Act should be made applicable to such areas, as it has been specifically mentioned in clauses 15 and 18 of the Bill.

The most controversial clause before the Select Committee was clause 18. This relates to non-transferable specific delivery contracts. In this connection the Bombay Government and the West Bengal Government made two contradictory recommendations. The Select Committee, it will be remembered, called for evidence from witnesses and after due consideration came to something like a compromise proposal. I was not quite satisfied with the compromise proposal, but I would still ask the hon. Minister to consider this whole clause 18 so that the Bengal point of view may not be neglected and lost sight of and the Bengal market position may be properly safeguarded.

10 A.M.

As regards the rights of the recognised Association, in clause 12 it has been provided that in certain cases the Central Government will have the power "to make or amend the bye-laws of the recognised associations" and in clause 13 it has been stated "after giving a reasonable opportunity to the governing body of the recognised association" to be heard in this matter. I do not know how "this reasonable opportunity" will be interpreted. I refer the hon. Minister to the remarks that he made about "this reasonable opportunity" last time. I have also my own suspicions about "this reasonable opportunity". In this clause previously there were the words "in consultation with the Commission" and that has now been deleted. I do not know why. If the Commission is to be the primary body in charge of these things, why should not the Central Government consult the Commission while taking certain steps against the recognised association?

In clause 10 (2) it has been provided that "If any recognised association... fails or neglects to comply with such order," "the Central Government may make rules or amend the rules made by the recognised association", but that should "be agreed upon between the association and the Central Government". Here it is a case of dealing with a delinquent body. This power should be exercised only when a recognised association will be found to have failed to comply with the directives of the Central Government.

Then I ask why should there be a provision here that any change in the rules to be made by the Central Government should be done on the agreement of that delinquent body? This I think is giving a premium to the delinquency of the association and encouraging them to neglect the directives of the Central Government.

As regards these rules and bye-laws, I think the Central Government should frame some model rules for all the recognised associations and these associations should not be given such wide powers as to frame their own rules. These model rules and bye-laws may be circulated to the recognised associations.

The recognised associations may be asked to make some suggestions on the model rules sent to them and the Central Government may consider those suggestions and if found necessary make certain changes. Generally the model rules should be accepted by the recognised associations and those

[Shri A. C. Guha]

rules should be framed by the Central Government. This will also ensure a sort of uniformity in the working of these associations

Another new feature of this Bill is the creation of an advisory committee. Here it has been put in very vague language "For the purpose of advising the Central Government in relation to any matter concerning the operation of this Act, the Central Government may establish an advisory Committee consisting of such number of persons as may be prescribed". What will be the function of the Advisory Committee and of whom will it be composed? Will it be composed of men taken from the Forward Markets or from those associations? I have my own misgiving about such a proposal and I think there should be some definite indication in the Act itself as to how this advisory committee will be framed and what will be its functions. Nothing has been mentioned except this: "Simply for the purpose of advising the Central Government." It does not mean anything. It is not known whether it will be a permanent body or it will be an *ad hoc* body which will be convened occasionally and whether that body would be asked to advise on specific points and after giving that advice, that body would be dissolved—all these should be made clear.

Then I would like to say that most of these commodities that will have to be controlled under this Act are provincial subjects. Yesterday we passed a Bill which enables the Central Government to exercise control as regards essential articles. There also I mentioned that the working of those controls is left to the Provincial Governments. Here also the regulation of these markets and at least the controlling of those commodities will be left to the Provincial Governments and I have my own suspicions about the delegation of power to the Provincial Governments in all these matters and I think when this House is asked to pass a Bill, it ought to have the authority to supervise the working of the measures envisaged in those Acts. So long as the forward contracts and the future markets are being controlled through the Essential Supplies Act, it is a continuation of the Defence of India Rules, which is a bad legacy and which has a bad odour and I think this Act with certain modifications should be passed. I welcome the idea that options have been definitely prohibited.

As regards the number of membership of the association, the Select

Committee last year put a certain limitation as regards the number and now that is left with the Central Government. The Central Government may or may not do so by notification or in the rules put a limit to the number of membership of the recognised association. This point of view, i.e., a limit on membership, as far as I remember, was strenuously stressed before the Select Committee by some Bombay businessmen and that has been eliminated here. Now there has been no limitation in number. I think that is a good change.

I do not know whether the Government has any intention to allow more than one recognised association in one area dealing with one commodity. So far as I know, there has been nothing definite about this.

**Shri T. T. Krishnamachari:** I have said that in my speech. We shall have only one recognised association for one commodity as a rule, but there may be exceptions.

**Shri A. C. Guha:** I think that in certain cases there may be more than one association so that this Act may not encourage some vested interests to continue their monopoly position. I think they sometimes manipulate their membership in such a way that new members cannot get any entry into those associations. In such cases the Central Government should have some authority to have new associations being formed. With these words, I support this Bill.

**Mr. Deputy-Speaker:** Mr. Heda.

**Kumari Annie Mascarene (Trivandrum):** rose—

**Mr. Deputy-Speaker:** If the hon. Member has no objection, I would give the preference to the Lady Member.

**Kumari Annie Mascarene:** We have as much right as any gentleman Member here to speak.

**Mr. Deputy-Speaker:** If the hon. Member should stand on her rights, I would not have given her this opportunity to speak.

**Kumari Annie Mascarene:** I thank you for the chance given. It would look unique on my part today to stand up and welcome this Bill. Generally from the opposition benches no welcome is given when a Bill is introduced into this House, but I welcome this Bill for the simple reason that this Bill will maintain the morale of trade and marketing. I welcome this Bill

because it would do justice to the consumer as well as to the manufacturer of goods. We have seen during the last few years, specially after democracy had come into being, trade and commerce has been exploited by brokers and middlemen. The manufacturer or producer cannot get a just price for the goods he produces. There is an artificial control on the manufacture or production of goods by exploiters. This Bill is calculated to control trade and commerce though on the face of it, it would look as if this Bill would interfere with the freedom of trade. That is true; but it is necessary to maintain a balance of justice between the consumer and the producer by control. I have experience in the markets of Travancore-Cochin State where I had to interfere with the brokers and middlemen who exploited the fisherfolk on the cost and coir manufacturers, etc. I have noticed that legislation of this kind is very necessary to protect the poor producer and the manufacturer. The middlemen and the brokers very often interfere; or they buy all the goods produced on the spot for a very cheap price and then control in such a manner that the consumer has to pay a high price when the goods come to the market. This Bill fixes a price and so there will be justice done both to the consumer as well as to the producer. Besides, there are sections controlling the organisations who exploit the people, and Government takes a keen interest in this matter. As far as I am able to see, by this Commission, Government also interferes with their bye-laws, etc. So much so, the consumer will have goods at a fair price. This is one of the measures by which you can fix a fair price in the market. The arrangement for the fixing of a scale of brokerage, the making, comparing, settling and closing of bargains, the limitations on the volume of trade done by any individual member, etc., will directly hit the exploiters and middlemen. Therefore, I congratulate the hon. Minister for bringing forward this Bill. I hope he will carry out every letter of this Bill so that the morale of trade and commerce will be maintained.

I have been looking forward to one provision in this Bill; but I have not been able to find it. There is what is called deception in the quality of goods. For instance, when tapioca starch was exported, it was found that white sand was mixed with it. Similarly when coir goods are manufactured, quality degenerates. When pepper is sold, you get the best quality mixed with black sandstones. So, there must be a very stringent clause to fix the quality of the goods we sell,

so that the morale of our business might be raised. I understand that in our foreign trade also, the prices of goods have fallen because the goods that we export are not of proper quality. There is this deception. It reflects on the nation. We have got to control this and improve the quality of our goods. I hope the hon. Minister will introduce a new clause to improve or fix the quality of the goods and when a seller enters into a contract, he should be made to deliver goods according to the conditions he has agreed to.

**Shri Heda (Nizamabad):** No doubt. I welcome this Bill as a step forward from the position we are in at present. But, my complaint is that in spite of the fact that the Government, in their Statement of Objects and Reasons have admitted that there is a great lacuna existing at present, i.e., after the passing of the Constitution, we have barred the State Governments from passing any legislation regarding future markets, and though more than 2½ years have elapsed, our progress in this direction is not satisfactory. My own apprehension is that the speed with which we are proceeding is not sufficient and I fear it will take a long time for this Bill to become a law. Last time what happened was at first a Bill was drafted, then it was circulated, then an expert committee was appointed and then a new Bill came forward. Then, it was sent to the Select Committee. You know, Sir, as you were the Chairman of the Select Committee, that it was felt in the Select Committee that enough evidence had not been produced, that particularly those sections, namely, trade and commerce had not been heard sufficiently. I fear some such plea would come up again this time and more time may be required. My own anxiety is that though there may be some minor defects here and there, some sort of legislation is necessary as early as possible. We will have enough time to improve whatever Bill we may pass; but, pass, we must, as early as possible so that there may be no lacuna.

Now, I come to the basic principle. The very first sentence in the Statement of Objects and Reasons is:

“Forward trading, which normally plays a useful part in tampering price fluctuations, tends in certain situations to exaggerate such fluctuations to the detriment of the interests of the producers as well as consumers.”

This, no doubt, was true about 25 years or at least 15 years before; but, I think today it is only a half truth.

[Shri Heda]

Forward trading, or what we call speculation, or what we call in our languages *satta*, did play a useful part, I think, before the Second Great War. But we have noticed that in the Great War and after it, speculation has not played any useful part; rather, it has played a very damaging part, because the whole structure of commerce and trade has changed. The so-called free trade or free enterprise has not remained free. A sort of a new thing, which was occasionally visible in the old days, called cornering, as they call it in the share market, is prevalent on a large scale. Go to any market, share market, or stock exchange, or any other market dealing in any commodity,—of course, I mean the future or forward market—you will find that some big guy or a rich millionaire comes and starts cornering. The result is that a major portion of the profits is swallowed by him, and the producer as well as the consumer are deprived of their prices. Therefore, it is high time that we should not only regulate the future markets, but control them to such an extent that the middle-man, the merchant, may get only what is due to him and not make extraordinary profits, and therefore, though here it is stated, and Government have been always saying that they would look to the interests of the producers as well as the consumers—I do not doubt their *bona fides*, I have no apprehension about their sincerity—the fact remains that whenever such measures come, two things happen: one, that the Government is always influenced by one particular section of opinion in the country, the section that has got a direct bearing on the forward market—I mean big persons connected with Stock Exchange Associations and others. The other sorrowful thing that we notice is that the so-called producer and the so-called consumer are generally absent and are nowhere represented, and unfortunately, they are not organised; rather, they do not know what is happening, and therefore, their interests are not safeguarded. In the last Select Committee, some of us did try to impress upon the Government that some witnesses should be brought before the Select Committee who would represent the viewpoint of the producer or the consumer.

Now, I come to a few details about the Bill. My hon. friend from Travancore, Mr. A. M. Thomas, desires that as we have done in another Act, the list of the articles that are to be regulated should also be there in the schedule, so that we should know what commodities we should regulate

through this Bill. I think the wide powers that Government has taken under this Bill are quite necessary. We should not name any particular article or commodity, but we should have confidence in Government and its machinery, and allow it to have power so that they may use it and regulate any commodity in which they see that fluctuations are taking place to the detriment of the interests of the consumers and the producers. Therefore, there is no need to have a list of articles as we have done in another Act.

I welcome an improvement that has been made in this Bill on the report of the last Select Committee so far as the third Member of the Commission is concerned. In the last Select Committee, I do know that some of us were feeling that the words which were there, *viz.*, "a man with wide experience", generally meant, and we felt Government's intention was also very clear, somebody who had been Chairman of some Stock Exchange, or some such big speculator who has, of course, given up speculation at the moment, or at least is not doing it in his own personal name. We felt that he would necessarily be the third Member of the Commission and as he is in the deep sea and knows all the details and as the other Members, we fear, are rather new, as having only academic knowledge, he would be able to influence the whole Commission to a very great extent. But the change that has been made raises our hope that some detached person can be there. There is difference between experience and knowledge; experience necessarily means one who has done something in speculation, while knowledge may mean a man who has studied the problem, and even one who has studied the problem from the point of view of the producers' and the consumers' interest. He has every chance to come there. Therefore, I welcome this improvement and I hope that the Select Committee will not tamper with, but rather, if possible, improve it further.

My hon. friend Mr. Guha, as we have seen him in the last Select Committee, has raised an objection with regard to Section 18.

I think this Act must apply to non-transferable specific delivery contracts. In fact, some of us felt that this Act should apply to every case of so-called non-transferable specific delivery contracts, because from what we see in practice, the so-called non-transferable specific delivery con-

tracts do become in practically all cases, transferable specific delivery contracts. In cross-examining a witness before the Select Committee, I had given a particular example which I would like to repeat here. Railway Receipts are supposed to be non-transferable, but what do the merchants do? They do transfer, not only from one man to another, but about a dozen or even more than a dozen hands. What they do is simply this: They write "I authorise so-and-so to take delivery of the goods on my behalf". He does not mention that he has sold the goods. He simply writes: "I empower or authorise Mr. so-and-so as my carting agent to take delivery of the goods" and that gives the other man all the power to take the goods on his behalf and he can dispose of those goods in any way he likes. And generally, without putting any name, keeping it blank, the receipt is transferred as is done with shares and other scrips, from one member to another, and they change so many hands in the market. Therefore, this non-transferable specific delivery contracts must come under the purview of this Act, and I would request the Members of the Select Committee to keep it as stringent as it is already there. In fact, we have gone out of our way when we accepted a sort of compromise and we gave the Government powers to apply this Act in certain cases. When Government feels there is no need to apply this power, certainly it will not do so, though some of us wanted that Government must apply their power in every case. Therefore, I think the people who come from Calcutta who have the jute market in view need not be afraid of this, and I hope their case will be considered and some concession may be given so far as jute is concerned, but in all other matters, particularly cotton, groundnut, oil-seeds etc., I do hope that Government will stick to Section 18 as it is.

I also welcome Section 25 regarding the Advisory Committee. Of course, nothing is said in the Section as to what its powers are or how it will be effective. And it cannot be stated as we are just starting a new thing. It is not possible to make all the matters clear, but I hope that as we gain experience, this Advisory Committee will be more effective.

My only request is that Government must keep the interests of the consumers and the producers before them whenever they think of appointing people to the Advisory Committee or any other Committees. I quite agree with my hon. friend Mr. Guha that

some provision should be made not exactly in this Bill, but in some form or other, so that this Parliament should have a chance to supervise the working of the Commission once in a year, so that every Member here would be in a position to draw the attention of the Government to the various aspects of the problem and in that way I hope that the machinery that we are providing in the Bill will improve further and further.

A specific time-limit has been fixed for the presentation of the report of the Select Committee. I have every hope that they will complete their deliberations within that period, and I would request the Government to fill up this lacuna early and see that this Bill is passed as soon as possible. I welcome this Bill.

**Shri K. P. Tripathi (Darrang):** I welcome this Bill and I congratulate the hon. Minister for bringing it forward.

While doing so I would like to draw pointed attention to one particular thing, namely the extension of this type of forward trading activity to mofussil areas. Till now, we had known that this type of activity was confined to certain big cities, which were dealing with international markets. But unfortunately this is no longer so. It is extended to mofussil areas and towns like the one in Assam where the population is only some 20,000 or so, and to villages with a population of about 1,000. Further we have found that even the primary producers and other villagers have begun to inquire about forward trading prices. The extension of this type of activity will have serious repercussions on society. You will realise that this is a type of gambling. Although it may be a serious type of economic activity, where money whirls round with a speed of tens of thousands per minute yet it is not a productive activity. Therefore in the planned economy which we are launching we have to find out what place shall be given to this type of activity. If we do not check this activity in time, the consequences would be serious. In my town alone, this activity became so serious that at one time for two months there was scarcity of money for trading purposes, and the ordinary things that were necessary for society could not be indented from outside.

**Mr. Deputy-Speaker:** Which is your town?

**Shri K. P. Tripathi:** Tejpur. What happens is that a lot of capital becomes tied up in this sort of activity and the result is that capital is not available for development purposes. This is the same as other gambling activities. If it were not so, it is certain that the Riviera in France would have been one of the most developed parts of the world. But it is not so unfortunately. Therefore in a planned economy we have to find out what place should be given for this sort of activity, which is neither economic nor productive. I do not know whether the Planning Commission has discussed this or not. I would however draw the attention of the hon. Minister to this fact so that he should decide how far such activity shall be carried on, and how far it shall extend. Further in Assam we found that this activity was no longer confined to jute only; it had extended to other commodities also, which were not to be exported from Assam. I do not know why there should be speculation in commodities which are not for export. Perhaps it was for this reason namely that the speculators thought that by amassing a good deal of wealth, they will be able to exert pressure on the Government, and the Government will withdraw the control in which case they will be able to export the commodities. I feel that this type of activity is not desirable for a society in which we have mapped out our resources for the next five years for development purposes. I hope the hon. Minister will look into this matter. In the statement of objects and reasons, he has stated that this Bill has got one good effect, namely that it will reduce the repercussions of the fluctuations in prices. But he has also admitted that to a certain extent it accentuates fluctuation in prices. If there is going to be any accentuation of these fluctuations, then it is not a desirable type of activity. But this difference is not there so far as the consumers are concerned. Whenever a slump comes, it comes with all its effects upon society, and the undesirable activities of a few cannot check it. Therefore I feel that there may be some little justification for forward trading in commodities which are of international concern. There may be some justification for people in big cities like Calcutta and Bombay to indulge in this kind of activity because it serves something like a forum for studying international trends in prices. But so far as commodities, which have no connection with the export, are concerned, I do not think such activity should be permitted at all; and so far as the extensions to

non-fossil areas are concerned, I think such a thing should be stopped altogether. If it is not done, then we will find that a large slice of the available capital in the country will be booked for this sort of activity, and the result will be that no developments will occur in the countryside either with regard to industry or with regard to agriculture. Therefore I would draw the attention of the hon. Minister in charge of this Bill and also that of the hon. Minister for planning, so that sufficient provision may be made so that this activity may be confined only to specified areas and to those commodities which are subject to international prices, so that some social purpose may be served and not extended to others where there may be no social purpose at all.

**Shri Mulchand Dube** (Farrukhabad Dist.—North): It is with a certain amount of misgiving that I rise to speak on the Bill. So far as the principle of the Bill is concerned, I am entirely in agreement with it, but I think that the law on the subject is contained in the Indian Contracts Act and the Sale of Goods Act. I do not find any provision in the Bill which overrides the provisions of any of these two Acts. If this Act comes in conflict with either the Sale of Goods Act or the Indian Contract Act, there might be some difficulty in enforcing it. Apart from this, no distinction seems to have been kept between wagering contracts, speculative contracts and forward contracts. So far as wagering and speculative contracts are concerned, my submission is that they should be forbidden as ruthlessly as possible, but forward contracts have a value and utility of their own. In certain cases, people may be required to purchase things which they may need some two or three months after. In this Bill, no provision seems to have been made for the protection or preservation of such contracts even.

The second difficulty that will crop up is that the power to declare certain commodities in which forward contracts are to be forbidden is given to the Central Government, and a mere declaration by the Government may not have the effect of overriding the provisions of the Contract Act and the Sale of Goods Act. My submission is that there might be some difficulty in enforcing the orders of the Government as against the laws that are in existence. These laws are laws passed by the Parliament, and a mere order by the Government may not be sufficient to override them.

These are the real doubts that occur to me in regard to the Bill, and I hope

the Select Committee and the hon. Minister will consider them. I do not feel on very firm ground in placing these things before the House, because I have not had the opportunity of studying the Bill very closely. Anyhow, I hope the Government and the Select Committee will take into consideration these things.

**Shri T. T. Krishnamachari:** I do not think that the discussion that has taken place in the House makes it necessary for me either to apologize for the introduction of this Bill or explain at length the several provisions. I will first deal with one point which I dealt with yesterday, namely certain remarks made by me on the last occasion when this Bill was referred to the Select Committee. I anticipated hon. Members would refer to my remarks and would say that those remarks might still hold good, at any rate, part of those remarks might still hold good. Hon. Members forget that since I spoke the Select Committee has considered this Bill. The cumulative wisdom of the Select Committee appointed by the Provisional Parliament has gone into it and certain decisions were taken and consequently certain changes were made. In fact, the reference made by the last speaker in regard to the doubts that he has as to what the position of the Indian Contract Act and the Sale of Goods Act will be has been partly met by the amendments proposed by the Select Committee on the last occasion. If hon. Members feel that all that I have said by way of criticism or the last occasion is not met by this Bill, my excuse is that I have no powers or the knowledge or the intention to override the decision of a body of people appointed by the Provisional Parliament who have gone into it far more thoroughly than the Expert Committee has done, and I do accept their decision. If my hon. friend from Travancore-Cochin was amused because I happen to be introducing this Bill—and he showed his amusement in unmistakable terms as well as by the smile which his physiognomy carried with it when he spoke about this measure—I must say I am glad that I provide opportunities for amusement, so long as that amusement is good-humoured. But I must again say that the amusement has limitations, in the sense that there is really no bearing on fact. The fact is that the whole thing has been gone into by a very competent body and all that I have done is to see further in the light of criticisms obtained later on and also my own proclivities in this matter whether the Bill cannot be changed. I do admit that I have made some changes. The changes may be for good or otherwise. But I could not make

very sweeping changes. That, I think will explain the apparent discrepancy between the attitude that I took up as a private Member on a measure of this sort and the one that I have necessarily to adopt as the sponsor of this measure.

My hon. friend, Mr. Bansal, had raised certain points and I think those points were also emphasised by other hon. Members who spoke. One thing he said was that under the Essential Supplies (Temporary Powers) Act the Government of India had certain powers over certain commodities mentioned therein. It is understood that those powers will lapse in 1955. What is to happen to a Bill of this nature which has some bearing on the Essential Supplies Act? The similarity between the Essential Supplies (Temporary Powers) Act and this measure is extremely faint. All that the Essential Supplies (Temporary Powers) Act does is merely to carry over the powers vested in Government under the Defence of India Rules not so much for the purpose of regulation, as for purposes of preventing speculation in certain types of goods which will endanger the supplies of those goods being available freely to the public. There is no intention at all either in the Defence of India Rules or in the Essential Supplies (Temporary Powers) Act to regulate futures trading. The idea is completely foreign to it. If at all some such regulation did come into play, it was incidental and not really *suigneris*. In this case we are contemplating a type of legislation which will control futures markets. The question was then raised that we were legislating here while there were no operations in the futures markets; we were also taking powers to indicate what those markets are to be, in the sense that the markets would be specified according to commodities in which they dealt. My hon. friend and other friends have raised this question: some of these commodities fall within the range of the provinces, List II of Schedule 7. Could the Government of India enact legislation in respect of those commodities? My hon. friend has forgotten that we are not legislating in respect of those commodities. We are not saying that such and such a price should be paid to the grower; we are merely legislating in respect of the activities relating to those commodities. If the argument of my hon. friend, Mr. Bansal, and others who followed him holds good, we shall not be competent to deal with Bills of Exchange which is found in item 48 of List I, because Bills of Exchange might relate to commodities which are within the purview of the provinces or States; we shall not be competent

[Shri T. T. Krishnamachari]

to deal with patents, inventions, copyrights and things of that sort because the commodities with which they deal may be in the State sphere and so on. Besides we will not be permitted to enact an amendment to the Contract Act, powers for which are found in the Concurrent List. The hon. Member, if he studies this measure more closely, will find that the Central Government is quite competent in this matter because we are only dealing with certain types of what may very well be called contracts and giving them a certain amount of legal significance and therefore, we have necessarily to legislate about them. Speaking for myself I have no doubt about it and I am assured by competent people that my attitude is right. If my attitude is wrong, well the law will take its own course; I shall not worry myself in explaining the legal position further at this stage.

Again my hon. friend, Mr. Bansal, raised a point which I anticipated yesterday, because I have heard this kind of thing. When we import the word 'Commission' oftentimes, we are guilty of using a nomenclature which could be widely interpreted. There is a fixity in regard to that concept in some people's minds and they will never get away from it. 'The Commission' means a statutory body acting independently of Government with statutory powers and so on—this is the concept in the minds of people, and when we use that nomenclature to mean a body which is not a statutory body, which is only an adjunct of Government, which could only be a part of the secretariat of a particular Ministry, well the conflict arises and we are asked to explain. In this instance I said yesterday that the Forward Markets Commission was not a Commission in terms of what was normally understood to be a Commission. (*Interruption*). Well it is a question of name. He probably thinks that it does smell as the name Commission does, but on that I do not propose to quarrel, nor do I propose to compromise. But I have made it very clear and the amendments that have been made in the body of this Bill, as distinct from that of the Select Committee's report, indicate that we do mean this to be an administrative machinery for the purpose of controlling the forward markets. We have also taken away the words 'in consultation with' to which I seem to have objected originally, because we did not want to give this body even a semblance of appearance of being

something totally independent of the Government. It will be part of the secretariat. It will be part of the secretariat of the Ministry of Commerce and Industry and that also in part answers my own objection to it in the past. If it is to be part of the secretariat, the cost will be considerably reduced. I have thought out this device which is subject to the approval of the Select Committee and thereafter this House. There would be no undue cost to Government by the working of this body. It will work as a limb of Government. As to the idea that a Commission is something totally different and has all the powers of a Statutory body, of course it is a statutory body because it finds a place in the Bill even as it is, but it is not an independent body. Well, it may be that some people do not like it.

I think one hon. Member here very pertinently remarked that certain changes had been made in regard to the qualifications of the Members of this Commission which he appreciated. I am glad he appreciated it, because I did not want the Government to be fettered with provisions in the matter of the choice of the members of the Commission which would mean that we must make the Commission representative of a body of people who operate in futures markets. Knowledge is quite enough. Knowledge might be acquired even by myself, having seen the working of one particular market in regard to an inquiry which I had the misfortune to conduct, and I think technically I shall be competent when I lose this job to become a member of the Forward Contracts Commission.

The hon. Member, Mr. Upadhyay again quoted largely from my speech. When he said that he and I shared the same views I thought when I approve of this measure he must have felt satisfied that I have provided adequate safeguards in respect of the difficulties which both of us felt on a previous occasion. I am only sorry that my hon. friend could not shift himself from that position to an altered position now, as the provisions of the Bill indicate in which we have taken a certain amount of care to see that the vested interests who will undoubtedly be associated in the Associations which will operate the futures market do not have overriding powers. There will be enough check so far as Government is concerned. In fact, we have provided here that though we agree to the principle that undesirable people should not be admitted

into the Associations, Government will not permit stratification of membership of these Associations. I do concede, Mr. Deputy-Speaker, that in dealing with the control of trade in a particular commodity we cannot escape from having to rub shoulders with the people who trade in those commodities, and if it happens that those people are by and large wealthy people, speculators, people who probably do what they like irrespective of ethical considerations.....

**Shri A. C. Guha:** And irrespective of Government control.

**Shri T. T. Krishnamachari:**..... Well, it cannot be helped. It is something like asking the Superintendent of a jail not to have any truck with people of criminal propensities. What we are doing is to go right into the field and try to regulate the business so that the economic future of this country would not be seriously jeopardised.

Mr. Thomas who spoke I think had in mind principally the position of the futures market in Cochin, and I think that was also what was behind the speech of the lady Member from Travancore-Cochin. The Government have before them a specific request from people trading in the State of Travancore-Cochin who wanted these markets to be reopened. We do not know whether we could do it at this stage or whether we could anticipate what will happen to control over the futures market when this Bill is passed. Any way the position is being examined. But I am glad that people coming from an area where big speculators are absent are nevertheless able to find some utility for a futures market, and I think probably one of the examples which make it necessary for us to recognise the need for allowing futures markets to operate is of those small markets like Cochin, and Alleppey perhaps, where it is found to be a very necessary aid for carrying on business, for safeguarding risks or rather for tampering them, amongst people who are not very wealthy, who are not multimillionaires such as you find in Bombay and Calcutta. Here it is indicated that the futures market might be usefully employed for ordinary trade purposes.

Mr. Guha wanted the Bengal position to be safeguarded. In this connection I would like to again remind the House of what I said yesterday in regard to non-transferable specific delivery contracts. We have undoubtedly made the provisions reasonably flexible and I think section 18 which has been the subject of some discussion provides a certain amount

of latitude. Mr. Guha expressed a doubt as to whether the former Select Committee was wise in drafting a section of that nature.

**Shri A. C. Guha:** I think I said that under the circumstances it was something like a compromise between two contradictory views and I was not quite surprised with it.

**Shri T. T. Krishnamachari:** He raised certain doubts about the wisdom of accepting that particular section. We will have an opportunity of going into it again. As I visualise it now I think it allows enough freedom, freedom from certain concepts that are embedded in the minds of people with regard to a sort of distinction between certain types of contracts. At the same time we do not want it to be a sort of rigid thing we would like a certain amount of flexibility and I think as it is now worded it provides for that flexibility. But we will have it examined.

A question was raised by an hon. Member about options. There are certain people who want options, some people who say there should not even be a semblance of gambling. What is now sought to be done is more or less described in a publication of the International Chamber of Commerce on trading in futures, dated some time in 1939. I could read a passage from it—there it mentions the technique:—

“It is necessary to emphasise that the contract is not a paper contract but definitely provides for the delivery on a stipulated date of a stated quantity of weight of the commodity dealt in.”

If that is the *sine qua non* of what is to be allowed in a futures market then options automatically disappear. Then—

“The quality or grade is also stipulated with the additional provision that quality above or below that grade may be tended within certain limits with allowance, but on or off the basis of contract.....” and so on.

If that is what is recognised generally as being proper in a futures market, what we understand as options here, which translated in our own terms is *teji mandi*, will have no place. But if options mean something else, that there is something specific about them, that they are not merely a matter of gambling and premium, well, we have to define and bring that within the scope of what is permissible under section 18.

**Shri A. C. Guha:** That will come under transferable specific delivery contract.

**Shri T. T. Krishnamachari:** Well, that is really the idea. Therefore while I agree that there is room for a certain amount of confusion the idea that we want to achieve in making it flexible is to see that we do not prohibit legitimate trading in futures where, some time or other, the transaction is related to delivery of goods or to the question of offsetting that contract by another contract before the contract matures. That is a thing we could go into again if necessary in the Select Committee.

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Mr. Tripathi disliked the basis of the whole thing. He has probably the experience of something happening in his own town. If what happens in his town is the type of option which is related to what we call in our own language "teji mandi", obviously that will be stopped, but on the other hand if normal trade purposes require that there should be some kind of future contracts similar to what obtains in Cochin or Alleppey, it might be good to have that permitted under the supervision of an Association which is authorised for that purpose and whose activities will be supervised by Government. It does not necessarily mean that the benefit should be confined to cities like Bombay and Calcutta. There is no reason why the concession should be denied to other parts. All that we insist upon is that there should be a recognised Association and the Association should have rules and bye-laws more or less conforming to the standard ones. There should be adequate provision for supervision and there should be no room for indulging in *teji mandi*. Subject to that, I do not see why we should not permit smaller areas to have the benefit of futures contracts, especially areas in which genuine business is done. Supposing there is a group of textile mills in Agra, for instance. There is a cotton market there. Why should I prohibit the mill managers there from covering themselves against purchases of cotton by entering into some futures contracts, so that the price of cotton for the purpose of costing might be more or less evened out. We need not say that this is a monopoly for Bombay and Ahmedabad and it should not be used in Agra. All that should be done is to see that this is not abused. There is no question of saying that there should be no futures market in a town with only twenty thousand inhabitants. That is not material. In South India,

for instance there might develop very soon a very big market in Rajapalayam, which has only twenty thousand inhabitants and I do not see why a market should not develop there.

The last speaker more or less voiced the fears that I had on a previous occasion, but the amendments made by the Select Committee on the last occasion have more or less filled in the lacuna that was there before and since we are going to give legislative sanction to these contracts which are entered into in conformity with the rules and bye-laws of the Association, I think the fear that my non-friend has in mind would be more than obviated.

There is one remark by my hon. friend Mr. Thomas to which I would like to reply. He said that I had an objection to the word "reasonable" on the ground that it more or less opened the floodgates of litigation. I agree that it is so. But then it is a concession to my hon. friend Pandit Thakur Das Bhargava that we agreed to import that word having regard to Article 19 of the Constitution. Having done that, I do not suppose I can stand against him and refuse to accept this word. That is my only apology for supporting a measure with the word "reasonable" in it.

Finally, I might say that all that hon. Members have said about the shortcomings of this measure will be noted down and placed before the Select Committee. It is for that body to consider them and give their verdict as to what has been said is right or otherwise. I cannot really anticipate the decisions of the Select Committee.

**Pandit Thakur Das Bhargava** (Gurgaon): What about the model rules and bye-laws to be framed by Government?

**Shri T. T. Krishnamachari:** As I said, that will be one of the matters which will be placed before the Select Committee.

I forgot to say one word about the Advisory Committee. I would plead guilty for including this provision. When I did so, I had in mind the fact that since the Forward Markets Commission is an executive body, people who are generally interested as well as certain amount of public opinion should be associated with Government. It is not a very difficult thing for Government to devise such a representation. We have Import and Export Advisory Council. The constitution is changed from time to time. Sometimes we ask Associations to send representatives: some-

times we pick up the representatives ourselves. I have no doubt that nothing but good will come out of consultations that take place between Government and public opinion as represented by these bodies. My idea was really this, that we should have a body of this nature to advise Government from time to time. It may be that we may refer specific cases or it may be that the Advisory Committee may meet twice or thrice or oftener and we may refer all cases to them as and when difficulties confront the Government. So, I cannot anticipate what the agenda would be that we would place before the Advisory Committee, nor is it wise for me to tie my hands up and say that the composition shall be two representatives from the House of the People, one representative from the Council of States, one from the East India Cotton Association and another from some other Association and so on. Government must be left free to choose from a wide variety of people. Perhaps, we may choose a banker. Perhaps, we may choose an economist. I am not at the present moment prepared to commit myself to the exact composition of the personnel of the Advisory Committee and what I thought would satisfy the House generally and the public at large is that Government would not operate away from public opinion. The Advisory Committee would be necessary essentially to represent public opinion to Government rather than to represent the opinion of any vested interest. That is my view. If the Select Committee feels that my view is wrong and they would like to take away this particular Section, I shall not complain. I have merely thrown up that suggestion for consideration. If the Select Committee approve of my intentions and think that nothing but good will come out of it, the Section will be there; if they feel otherwise, the provision will go.

**Mr. Deputy-Speaker:** The question is:

"That the Bill to provide for the regulation of certain matters relating to forward contracts, the prohibition of options in goods and for matters connected therewith, be referred to a Select Committee consisting of Shri Chimanlal Chakubhai Shah, Shri V. B. Gandhi, Shri Ghamandi Lal Bansal, Shri Mukand Lal Agarwal, Shri Raghuraj Sahai, Shri Sinhasan

Singh, Shri C. R. Bassappa, Shri Balwant Sinha Mehta, Shri Asim Krishna Dutt, Shri Lalit Narayan Mishra, Shri Mathura Prasad Mishra, Shri R. P. Nevatia, Shri Ahmed Mohiuddin, Dr. Ram Subhag Singh, Shri P. T. Thanu Pillai, Shri G. R. Damodaran, Shri K. T. Achuthan, Shri Satish Chandra Samanta, Shri Jagannath Kolay, Shri C. R. Chowdary, Shri Umashanker Muljibhai Trivedi, Shri Tulsidas Kilachand, Shri Amjad Ali, Shri Rayasam Seshagiri Rao, Shri G. D. Somani, Shri Dev Kanta Borooah, Shri Bhawanoji A. Khinji, Shri Bhagwat Jha Azad, Shri Satish Chandra, Shri Radhelal Vyas, Shri Feroze Ghandhi, Shri D. P. Karmarkar, Shri Chintaman Dwarkanath Deshmukh and the Mover, with instructions to report not later than the first day of the second week of the next Session."

The motion was adopted.

**Mr. Deputy-Speaker:** I appoint Shri T. T. Krishnamachari as the Chairman of the Select Committee. The House stands adjourned till 6-15 p.m.

*The House then adjourned till a Quarter Past Six of the Clock.*

*The House re-assembled at a Quarter Past Six of the Clock.*

[MR. DEPUTY-SPEAKER in the Chair]

MESSAGE FROM THE COUNCIL  
OF STATES

**Secretary:** Sir, I have to report the following message received from the Secretary of the Council of States:—

"In accordance with the provisions of rule 125 of the Rules of Procedure and Conduct of Business in the Council of States, I am directed to inform the House of the People that the Council of States, at its sitting held on the 12th August, 1952, agreed without any amendment to the Preventive Detention (Second Amendment) Bill, 1952, which was passed by the House of the People at its sitting held on the 6th August, 1952."

**Mr. Deputy-Speaker:** The House now stands adjourned *sine die*.

*The House then adjourned sine die.*