

Par. 82.11.52  
830

Wednesday,  
12th November, 1952



# PARLIAMENTARY DEBATES

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HOUSE OF THE PEOPLE

OFFICIAL REPORT

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**PARLIAMENT SECRETARIAT**  
**NEW DELHI**

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## OFFICIAL REPORT

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## HOUSE OF THE PEOPLE

Wednesday, 12th November, 1952.

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

[MR. SPEAKER in the Chair]

## ORAL ANSWERS TO QUESTIONS

ACQUIRING COPIES OF ARCHIVES BY  
PAKISTAN

\*220. **Dr. Ram Subhag Singh:** Will the Minister of Education be pleased to state:

(a) whether it is a fact that joint talks were recently held in New Delhi between the representatives of India and Pakistan in regard to the question of acquiring copies of archives and records which are of interest to Pakistan;

(b) if so, whether any agreement has been arrived at; and

(c) if the answer to part (b) above be in the affirmative, what are the chief features of that agreement?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) Yes.

(b) and (c). The representatives of the Government of India and Pakistan discussed preliminary steps to implement the decision of the Partition Council for affording full facilities to the nominees of the Pakistan Government for examining indices and records with a view to listing records of interest to Pakistan Government. It was agreed to find out if spare copies of indices of records could be made available to the Pakistan Government. The representatives of Pakistan Government were also generally assured that full facilities will be accorded to them in the matter.

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**Dr. Ram Subhag Singh:** Was it agreed at the time of partition that the Directorate of Archives in New Delhi would be maintained as a unit and the records would remain intact and would not be divided?

**Shri K. D. Malaviya:** No, Sir, I do not think there was any such agreement.

**Shri A. C. Guha:** Is there any idea of giving any of the original records or simply copies of these records to the Pakistan Government?

**Shri K. D. Malaviya:** Sir, the idea was to give copies and to give other general facilities for them to get all the information in which the Pakistan Government was interested.

**Shri A. C. Guha:** My point is whether any of the original records are to be handed over.

**Mr. Speaker:** I think that is replied to. He said the idea was to allow facilities for getting information and getting copies.

**Shri Velayudhan:** May I know, Sir, whether these original records will include our records in the High Commissioner's office in London also? May I know whether it was divided or not?

**Shri K. D. Malaviya:** I am not aware of that.

**Shri B. S. Murthy:** Is there any list prepared already and may I know whether that list contains any necessary documents which India essentially requires?

**Shri K. D. Malaviya:** No, Sir.

## GENERAL ELECTIONS (EXPENDITURE)

\*221. **Shri S. N. Das:** (a) Will the Minister of Law be pleased to refer to the reply given to my starred question No. 392 asked on the 3rd June, 1952 and state whether the remaining States have since furnished the figures of expendi-

ture incurred in connection with the first General Elections?

(b) If so, what is the total amount of expenditure incurred in each case and the total for the whole of the Indian Union?

(c) What is the total amount of receipts in the general elections by way of fees and forfeiture of security deposits giving separate figures for each State?

**The Minister of Law and Minority Affairs (Shri Biswas):** (a) Yes.

(b) and (c). A statement is laid on the Table of the House. [See Appendix II, annexure No. 1.]

**Shri S. N. Das:** May I know what is the amount of expenditure of a non-recurring nature involved in this total expenditure of 9 crores and 35 lakhs?

**Shri Biswas:** I am not prepared to give an answer to that; that was not asked for.

**Shri S. N. Das:** From the statement it appears that we have not received the figures from West Bengal, or probably the figures have not been available. May I know why the West Bengal Government has not submitted the figures?

**Shri Biswas:** The reply from the West Bengal Government was: "Complete figures showing the amount of income realised by way of fees and forfeiture of security deposits are not available yet". That was why they could not be included.

**Shri S. N. Das:** May I know, Sir, whether any efforts have been made by the Government to calculate and just add up the total expenditure incurred by various candidates for election to the House of the People?

**Shri Biswas:** That will appear in their returns of election expenses. They are public documents; they are open to inspection and any one interested may add up the figures after he has gone through the returns of all the candidates.

**Shri S. N. Das:** What I wanted to know was whether efforts had been made to just add up the expenditure incurred by the candidates so that the House might be able to know what had been the total expenditure incurred by the candidates.

**Shri Biswas:** I am afraid that has not been done yet.

**Shri K. K. Basu:** May we know whether any bills of the polling off-

cers or their agents are still outstanding in West Bengal or any other State?

**Shri Biswas:** Unfortunately, I cannot give you that information. That information was not asked for and it is not before me.

#### SALES TAX (UNIFORMITY)

**\*222. Shri A. M. Thomas:** (a) Will the Minister of Finance be pleased to state what, if any, are the steps taken so far to bring out uniformity in sales tax in the various States after the legislation under Article 286 of the Constitution?

(b) Has any State Government sought the sanction of the President to levy tax on articles exempted by the legislation in Parliament and if so, which State and with what result?

**The Minister of Revenue and Expenditure (Shri Tyagi):** (a) It is only in respect of goods declared essential under the "Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952" passed by Parliament under Article 286 (3) of the Constitution that the Central Government can exercise any legal authority on the levy of Sales Tax by States. Under this Act, the State laws passed after its commencement in regard to Sales Tax on essential goods cannot have effect unless assented to by the President. In advising the President in this respect the Central Government tries to ensure that certain uniform principles are adhered to.

(b) The effect of the above Act is not to grant any exemption as such but, as stated already, to require the President's assent to State laws imposing tax on essential goods.

President's assent has been accorded so far to "The Bombay Sales Tax Act 1952" and "Saurashtra Sales Tax (Amendment) Act 1952."

**Shri A. M. Thomas:** May I know, Sir, whether the question of a uniform policy in the levy and administration of sales tax was discussed in the recent conference of Finance Ministers, and if so, what is the result?

**Shri Tyagi:** Yes, Sir, the matter was discussed threadbare in the Conference and the Conference appointed a high-level Sub-Committee of Ministers to look into some of the problems, and some agreements were arrived at. I am very sorry I cannot really disclose the terms of the agreement just now because it is still under consideration and comments from some States are still to come. The

Committee has appointed a Sub-Committee of officers of various States who are further pursuing the matter.

**Shri A. M. Thomas:** May I know Sir, whether the Central Government contemplate to review the position in the light of the recent pronouncement of the Supreme Court, and, also from the experience gained so far, do they contemplate, if necessary, an amendment of the Constitution?

**Shri Tyagi:** The latest decision of the Supreme Court does not warrant any change in the Constitution.

**Shri M. L. Dwivedi:** May I invite the attention of the hon. Minister to the news appearing in certain papers to the effect that uniformity is neither desirable nor possible?

**Mr. Speaker:** Order, order. What is the information that he wants?

**Shri M. L. Dwivedi:** Regarding uniformity in sales tax.

**Mr. Speaker:** Then he is asking for an opinion.

**Shri M. L. Dwivedi:** The news appeared that it is neither desirable nor....

**Mr. Speaker:** We are not concerned with opinions.

**Shri M. L. Dwivedi:** Whether it is true or not? It is a decision taken by the Finance Ministers' Conference and I am asking for that.

**Shri A. M. Thomas:** May I know, Sir, whether the policy of the Central Government contemplates uniformity not only in the articles to be taxed but also in the matter of the points on which levy has to be imposed?

**Shri Tyagi:** Sir, as is evident, the Centre is empowered to enforce any sort of uniformity in the matter only of essential goods, according to the Act recently passed. On other articles it is not possible for the Centre to intervene, unless by way of persuasion. That has been tried, but it is very difficult to have uniformity in the immediate future because any uniformity means upsetting the financial condition of many States. The States themselves have to consider and decide that.

**Shri A. C. Guha:** The hon. Minister has said that so far sanction has been given to two States for these taxes. May I know what is the procedure, Sir? Have the State Governments first to pass the law and then ask for sanction or have they to take the sanction of the President before passing the Bill?

**Mr. Speaker:** I think it is a matter of procedure which is well-known. The Act will not have force unless there is the President's sanction. That is the position.

**Shri A. C. Guha:** May I know whether the States have to take previous sanction before introducing the measure?

**The Minister of Finance (Shri C. B. Deshmukh):** It seems to me that what the hon. Member wants is this. At what stage is the President's consent sought; whether there is any convention by which the States should formally consult the Centre before promoting legislation? I believe that kind of convention will grow as a matter of desirability.

**Shri T. N. Singh:** May I know whether the Governments of India and the States together have come to any decision regarding having single point tax or multiple point tax?

**Shri Tyagi:** No decision could be arrived at on that issue as far as other commodities are concerned. But so far as those commodities which are declared 'essential' are concerned, we have come to certain conclusions and they are being followed by the Central Government. We have laid down the following which we keep in view while recommending to the President for his assent to Sales Tax Legislation:

- (1) No tax should be levied at any stage on sales or purchases of foodstuffs and raw materials for important industries
- (2) On other goods, tax of not more than 5 pies per rupee or in the case of a particular commodity not more than such higher rate, as may be considered reasonable at the point of sale to the consumer, to be levied. This would be a single-point tax; and
- (3) it is suggested that the Governments of the States should, as soon as possible, alter their existing law so as to conform to these principles.

The Government of India will also bear these principles in mind in recommending to the assent of the President future State legislation under clause (3) of Article 286. These are the principles which are guiding our policy in this matter.

#### ADMINISTRATIVE AUDIT SYSTEM

\*223. **Shri M. S. Gurupadaswamy:** (a) Will the Minister of Finance be pleased to state whether the Administrative Audit System recommended by

the Public Accounts Committee in 1950-52 has been accepted by Government?

(b) If the answer to part (a) above be in the affirmative, when will it be introduced?

**The Minister of Revenue and Expenditure (Shri Tyagi):** (a) and (b). The system of Administrative Audit as in vogue on the Military Engineering Services side is proposed to be tried in the Central Public Works Department as recommended by the Public Accounts Committee. Its financial implications were still under my Ministry's examination, it is difficult to fix the date of its introduction.

**Shri M. S. Gurupadaswamy:** May I know, Sir, what are the difficulties in applying the system to all the Ministries?

**Shri Tyagi:** As I have said, the financial implication of the scheme with regard to its application to other departments has to be examined and we have to examine also whether it will not be duplication of work.

**Shri M. S. Gurupadaswamy:** Has it come to the notice of the hon. Minister that certain grants made to one Ministry have been utilised by other Ministries?

**Shri Tyagi:** That is never the case.

**Shri M. S. Gurupadaswamy:** Has it come to the notice of the hon. Minister that in the report of the Public Accounts Committee the attention of Government has been drawn to this aspect?

**Shri Tyagi:** I am afraid I have not got that information. If the hon. Member will point out such a thing I will take whatever suitable action can be taken.

**Mr. Speaker:** Does the Public Accounts Committee make a statement to that effect?

**Shri M. S. Gurupadaswamy:** The Public Accounts Committee in its report has said that the grants made by one Ministry have been utilised by other Ministries without taking the formal approval of the Parliament.

**Mr. Speaker:** That goes into a different question. It must be within the financial rules. How can they go beyond those rules?

**Shri T. N. Singh:** May I know whether the system of administrative audit is also applied to the Irrigation and the Central Public Works Departments?

**Shri Tyagi:** As I said, Sir, it is not yet decided as to how far this should be applied or enforced in these departments.

**Shri T. N. Singh:** Is it true that the Public Accounts Committee in its report stressed that questions of finance should not stand in the way of proper administrative audit arrangements?

**Shri Tyagi:** They have.

**Shri T. N. Singh:** Do the Government even then want to withhold the implementation on financial grounds?

**Shri Tyagi:** After the recommendation of the Public Accounts Committee was received, the Government appointed an inter-departmental committee of officers to suggest to us the manner in which this should be applied. They have recommended that this should be applied only to the Public Works Department to start with. The Public Works Department have therefore been consulted and we are just awaiting their reactions to it. It is proposed to apply it in the next financial year but its financial implications are still under examination.

#### RE-APPOINTMENT OF RETRENCHED MILITARY AND CIVIL OFFICERS

\*224. **Shri S. C. Samanta:** (a) Will the Minister of Defence be pleased to state the number of applications for re-appointment received from retrenched and surplus military and civilian officers up to the 31st March, 1952?

(b) How many of such applications have been scrutinised and how many rejected?

(c) How many persons have been absorbed and how many are on the waiting list?

(d) What is the policy adopted by Government as regards such absorption?

**The Minister of Information and Broadcasting (Dr. Keskar):** (a) 2996.

(b) All the 2996 applications were scrutinised early this year with reference to the appointments which were vacant at the time and for which the applicants were being considered. 1372 of the applicants did not satisfy the qualifications prescribed for the appointments. Of the remaining, 58 were selected and the rest (i.e. 1568) rejected. I should, however, like to make it clear that those rejected on the last occasion will continue to be

borne on the register and will be considered as and when vacancies arise in the grades for which they are qualified.

(c) Twenty-five officers have so far been absorbed while acceptance of the offer of appointment made to five others is still awaited. Seven officers are on the waiting list and will be absorbed as more vacancies occur.

(d) The policy is to accord priority to retrenched surplus Government servants and to find alternative employment for as many of them as possible.

**Shri S. C. Samanta:** Is it not a fact, Sir, that there is haphazard retrenchment in one and recruitment in another department still going on? If so, what arrangements have been made by the Government to avoid this anomaly?

**Dr. Keskar:** I am not aware, Sir, of any haphazard recruitment. I would be very grateful to the hon. Member if he points out specific instances of such recruitment.

**Shri S. C. Samanta:** May I know, Sir, whether in the retail section of the Canteen Stores Department, which has recently been taken over by the military, the Defence Department had given chances to these officers and employees to be absorbed?

**Dr. Keskar:** As I said, the general policy that has been followed is that whenever vacancies arise, as for example, in the section to which my hon. friend has referred, first priority will be given to retrenched personnel.

**Shri S. C. Samanta:** May I know, Sir, whether in selecting these retrenched persons, the only criterion is their past records or are other things also taken into consideration?

**Dr. Keskar:** The past record of the candidate's service and also his performance at the interview, because the interview is by the Selection Board which consists of a Member of the UPSC and other officers.

**Shrimati Maydeo:** Is it a fact that officers and retrenched officers having been informed several times by the Resettlement and Employment Department about existing vacancies they are still left unemployed?

**Dr. Keskar:** I am afraid that this perhaps refers to some other depart-

ment and not to the Defence Department.

**Mr. Speaker:** I think she is referring to the Defence Department.

**Shrimati Maydeo:** Yes, I am referring to the Defence Department. They were informed by the Resettlement Department about vacancies, but never asked by the Public Service Commission to come for interview and therefore nothing further materialised.

**Dr. Keskar:** As far as my information goes it is not so. I will certainly look into such instances if they are brought to my notice.

**Shri V. P. Nayar:** Is the policy regarding retrenched personnel uniform for the personnel of the Indian Army and the State Forces retrenched consequent on integration?

**Dr. Keskar:** I would require notice, Sir.

**Dr. Jaisoorya:** I wanted to ask the same question whether the same things are taken into consideration in the case of applications from ex-State Army Personnel?

**Dr. Keskar:** That is a repetition of the same question.

**Shri N. Sreekantan Nair:** Are the Government aware that there is a complaint from the South Indians that the Army Selection Board tries to exclude by fair or foul means the South Indians as a class?

**Mr. Speaker:** Order, order.

**Shri K. K. Basu:** May I know whether before any retrenchment is initiated proper enquiries are made about their absorption in any other department?

**Dr. Keskar:** They are eligible in other departments also. In fact, in the case of absorption in the Defence Ministry, retrenched personnel from other departments are also eligible.

**Shri S. C. Samanta:** May I know whether the Union Public Service Commission has rendered any help in the selection of these persons?

**Dr. Keskar:** The selection and the procedure adopted for the selection have always been effected with the assistance and advice of the Union Public Service Commission.

**Mr. Speaker:** Next question.

**DEARNESS ALLOWANCE COMMITTEE  
(REPORT)**

\*225. **Shri S. N. Das:** (a) Will the Minister of Finance be pleased to state whether the Report of the Dearness Allowance Committee has been considered by Government?

(b) If so, what are the decisions that have been taken in this connection?

The Minister of Revenue and Expenditure (Shri Tyagi): (a) and (b). The Report of the Dearness Allowance Committee is now under the consideration of Government and a decision thereon is expected to be taken shortly.

In this connection, a summary of the salient features of the Report is placed on the Table of the House. [See Appendix II, annexure No. 2.]

**Shri S. N. Das:** From the statement it appears that the Committee consulted some economists in regard to certain basic data about the cost of living. May I know the names of those economists?

**Shri Tyagi:** I am sorry I have not got the names of the economists who were consulted.

**Shri S. N. Das:** I want to know whether it will be necessary for the Government to revise the scales of pay after acceptance of the recommendations of this Committee.

**Shri Tyagi:** No, Sir. No revision is called for. The only point is that half the dearness allowance will get assimilated in pay.

**Shrimati Maydeo:** May I know whether the pensioners will get their due increment as recommended by the Dearness Allowance Committee?

**Shri Tyagi:** Pensions will be accordingly affected.

**Shrimati Maydeo:** No, no. Will pensioners get something more?

**Shri Tyagi:** The pensioners will be given the option of choosing whether they would like to have pension on the basis of this increased pay in which half the dearness allowance may be assimilated, or on the old basis.

**Shri S. V. Ramaswamy:** Was the report unanimous?

**Shri Tyagi:** Till the eleventh hour my Joint Secretary who was participating in that Committee was reporting to me that the Committee was

proceeding unanimously all through and that there was a spirit of "give and take", but when the report was signed I was surprised to receive the information that a non-official member, Shri Guruswamy, had given a minute of dissent. I do not know the circumstances under which he differed. The proceedings of the Committee prior to this had been unanimous.

**Shri Vidyalkar:** Will the Government provide an opportunity to the House for discussing this report?

**Shri Tyagi:** I do not think that such reports are generally discussed in the House. I wonder if the hon. Speaker would consider it to be a matter of importance.

Several Hon. Members rose—

**Mr. Speaker:** The appeal is to me. I am going to the next question.

**LOAN FOR PURCHASE OF CARS**

\*226. **Shri V. P. Nayar:** (a) Will the Minister of Finance be pleased to state whether the Government of India advance loans to their class I and class II officers for the purchase of cars and if so, what is the maximum amount given as loan to an officer?

(b) Do Government advance loans to class III and class IV officers for the purchase of bicycles and if so, what is the maximum amount given to an officer?

(c) What are the conditions of repayment of these loans?

The Parliamentary Secretary to the Minister of Finance (Shri B. K. Bhagat): (a) Yes. The maximum limit of the advance is Rs. 10,000/- or five months' pay of the Government servant or the anticipated price of the motor car, whichever of these is the least amount.

(b) Yes. Advances are admissible to all Government servants whose pay does not exceed Rs. 300/- per mensem. The maximum limit of the advance is Rs. 175/- or four months' pay of the Government servant or the anticipated price of the bicycle whichever of these is the least amount.

(c) The advances are repayable with simple interest. In the case of advances for the purchase of motor cars, they are repayable in not more than forty-eight monthly instalments, while those for the purchase of bicycles are repayable in not more than

twenty-four or twelve monthly instalments according as the Government servant concerned is a permanent or a temporary Government servant. Adequate security is demanded in the case of temporary Government servants and motor cars purchased with the help of an advance are to be insured and mortgaged to Government.

**Shri V. P. Nayar:** Is it not a fact that with Rs. 175 a reasonably well-equipped bicycle cannot be bought now?

**Shri B. R. Bhagat:** I think it can be bought.

**Shri V. P. Nayar:** Does the hon. Minister know the current prices of standard makes of bicycles?

**Mr. Speaker:** The point seems to be that only an advance is made for the purchase. The employee may supplement it by his own resources.

**Shri V. P. Nayar:** Then, may I ask whether, in view of the fact that the amount now advanced is not enough for purchasing a standard bicycle, and in view of the lack of adequate resources in the hands of the employees to supplement the advance, Government will consider increasing the advance?

**Mr. Speaker:** I do not think I should allow this question. It is a suggestion for action.

**Shri Damodara Menon:** When advances are made to Government servants for the purchase of cars, is there any condition that they must buy only cars made in India?

**Shri B. R. Bhagat:** No such condition is imposed.

**The Minister of Revenue and Expenditure (Shri Tyagi):** There is no such condition, but then cars not manufactured in India are generally not allowed to be imported into India and there is a heavy duty. Therefore, they have perforce to purchase cars which are manufactured in India.

**Shri Altekari:** May I know the rate of interest that is charged on this advance?

**Shri Tyagi:** The rate is between 3 and 3½ per cent.

**Shri Nanadas:** Shri Buchhikotiah has given me authority. Shall I put question 227?

**Mr. Speaker:** Is it in writing?

**Shri Nanadas:** Yes.

**Mr. Speaker:** He may pass it on to the Secretary. It will be taken up at the end.

#### COLOMBO PLAN

\*228. **Dr. Rama Rao:** (a) Will the Minister of Finance be pleased to state whether a number of Indian students are being sent to Britain under the Colombo Plan?

(b) If so, what are the main terms of the agreement according to which these students are being sent?

(c) Have any students been already selected under this scheme; if so, what are their qualifications?

(d) Where are these students expected to study and what subjects will they specialise in?

(e) What are the financial commitments of the Government of India and the Government of U.K. respectively, towards the implementation of this scheme?

(f) With what type of work will these students be entrusted after their return?

**The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat):** (a) Yes, Sir.

(b) The students are being sent to the United Kingdom under the Technical Cooperation Scheme of the Colombo Plan, copies of which were laid on the Table of the House on the 28th November, 1950. Technical assistance under the Scheme is being provided on a bilateral basis between the two Governments.

(c) Yes, Sir; the candidates selected were those already in employment and had the necessary technical qualifications pertaining to their positions.

(d) The students would study in a field for which they were selected for training in the United Kingdom. These are mainly in Agriculture, communications, public health and medicine, irrigation and power, coal mining, industry and specialised fields of labour.

(e) According to the Technical Cooperation Scheme, all costs of training in the country providing the training and passage both ways are met by that country. The Government of India or the sponsoring authority has to bear inland cost on transportation and their salaries.

(f) The persons sent abroad for training will come back to their jobs.



**Dr. Rama Rao:** May I know the method and machinery for selecting these candidates?

**Shri B. E. Bhagat:** They are selected by the Department concerned. The names are sent by the State Governments and the various other organisations, and they are finally selected by a Board here in the Government of India.

**Dr. Rama Rao:** Am I to understand that there is a Selection Board in the Government of India?

**Shri B. E. Bhagat:** I have not got the name of the Board. I want notice.

**The Minister of Revenue and Expenditure (Shri Tyagi):** In each Ministry, a Selection Board consisting of officers is appointed and whenever any applications are received pertaining to a Ministry, that Ministry considers them in its own Board.

**Shri Meghnad Saha:** Does the Selection Board consist of experts or only of Government servants?

**Shri B. E. Bhagat:** I have not got the personnel of the Board here—I cannot say.

**Mr. Speaker:** He wants to know the position generally.

**Shri B. E. Bhagat:** Generally Government servants.

**Shri Damodara Menon:** Does the Selection Board conduct any competitive examination before selection?

**Shri B. E. Bhagat:** No competitive examination is conducted.

**Shri H. N. Mukerjee:** I find from a brochure supplied to us last session that the technical cooperation scheme under the Colombo Plan is administered by a Council composed of representatives of the participating Governments. Do I take it that this Council has anything to do with the selection, as far as these people are concerned?

**Shri B. E. Bhagat:** No, Sir.

**Dr. Rama Rao:** May I know whether Government are contemplating sending any people for training in industrial engineering and technology?

**Shri B. E. Bhagat:** Yes, it is one of the subjects.

#### FOREIGNERS IN PRISON

**\*229. Shri Jajwara:** Will the Minister of Home Affairs be pleased to state:

(a) how many foreigners are in prison or detained in India at present; and

(b) whether it is the intention of the Government of India to release them and if so, by what time and on what ground?

**The Deputy Minister of Home Affairs (Shri Datar):** (a) The information is being collected and will be laid on the Table of the House in due course.

(b) No foreigner has been detained by order of the Government of India, so the question of release does not arise. In regard to convicted prisoners the Government of India have no intention of exercising any special clemency.

**Shri Jajwara:** How long will it take for the information to be collected?

**Shri Datar:** About two months.

#### MILITARY STORES

**\*230. Shri A. N. Vidyalkar:** Will the Minister of Defence be pleased to state:

(a) whether Government have made any efforts to replenish their military stores with home-made materials;

(b) the percentage of India's self-sufficiency in military equipments and stores in the years of 1945, 1947, 1951 and 1952; and

(c) whether Government have formulated any plan by which the production and supply of home-made war material would be speeded up?

**The Minister of Information and Broadcasting (Dr. Keskar):** (a) and (c) Yes. A Committee called the "Imported Stores Screening Committee" was set up by the Ministry of Defence in January 1949 with representatives of the civil Ministries concerned and the three Services to provide a machinery for the continuous examination of items of Defence stores which should be obtained by imports and by indigenous production respectively, and for the initiation of indigenous production, wherever possible. Every attempt is made to initiate production of new items in the Government Factories and through the trade in India.

In order to attract the attention of indigenous industry to these items three sample rooms of imported stores which, it is thought, can be manufactured locally have been opened in Delhi, Bombay and Calcutta. At these museums technical personnel are available to explain details to those interested in such production.

(b) So far as the years, ending March 1945 and March 1947 are concerned, we have no reliable data, as under the "Defence Expenditure Plan", which was in force during these two years, the bulk of the expenditure on stores procured from abroad was not required to be brought to account in the Indian Defence books. The percentage of self-sufficiency in the years 1951 and 1952 was approximately 43 per cent. and 45 per cent. respectively.

**Shri A. N. Vidyalkar:** May I know the names of the countries from which war materials are chiefly imported?

**Dr. Keskar:** I would ask for notice of that question.

**Shri V. P. Nayar:** May I know, Sir, whether mats and mattings are required for military stores and, if so, the annual requirement of coir mats and mattings?

**Mr. Speaker:** I am afraid it is going into details. If the hon. Minister has got the details, he may supply them.

**Dr. Keskar:** I have not got the details, but certainly we have been purchasing mats and mattings mostly at home.

**Shri T. N. Singh:** Is it true that in the Defence Military Stores a lot of articles, especially tinned articles, are being imported, though equivalent qualities are available in India?

**Dr. Keskar:** I have not got the details of imports.

**Shri Punnoose:** Will Government arrange to purchase coir mats and mattings for military purposes, in view of the fact that that industry is facing a very great crisis?

**Mr. Speaker:** I am afraid it will be a suggestion for action. The hon. Minister has already replied that the purchases are mostly in India.

**Shri Meghnad Saha:** Will the Minister be pleased to say as to what has happened to the plan for making of radio equipment and appliances in this country, as recommended by a Committee of Government about two years ago

**Mr. Speaker:** I am afraid we are going into details, not directly relevant to the present question which is of a general nature.

#### STRIKE OF DEFENCE WORKERS AT POONA

\*231. **Shri N. Sreekantan Nair:** Will the Minister of Defence be pleased to state:

(a) whether it is fact that the Defence Workers in the various Defence establishments at Poona and its surrounding areas went on strike towards the end of August, 1952;

(b) if so, how long the strike continued; and

(c) the reasons for the strike?

**The Minister of Information and Broadcasting (Dr. Keskar):** (a) Defence workers in Central Armoured Fighting Vehicle Depot, Kirkee only went on strike from 29th August 1952 and in other establishments from various dates in September 1952.

(b) The period varied from 6 days to 25 days.

(c) The immediate reason for the strike was the serving of notices of discharge on 213 surplus labourers of the Central Armoured Fighting Vehicle Depot, Kirkee.

**Shri N. Sreekantan Nair:** What were the terms of the settlement of the strike, if any?

**Dr. Keskar:** The strikers had put forward a number of demands. I will not be able to give in detail all the terms of the agreement. The main question was regarding the reinstatement of the men who had been served with a notice. All of them were offered alternative jobs and many of them were immediately given some jobs.

Another demand was prior consultation with labour representatives before retrenchment was decided upon. In this matter orders have been issued that in all Defence factories, retrenchment proposals should be placed before them and submitted to higher authorities only after ascertaining the views of the workers' representatives on the committees. There was a demand also for the upgrading of Poona as a B area. The matter is still under consideration.

Orders have been issued regarding half a month's pay for every completed year of service from the 1st October 1949, subject to a minimum of one month's pay, provided that no contribution shall be made by Gov-

ernment to the workers concerned to the provident fund scheme and provided also that he is not entitled to any gratuity under any other scheme sanctioned by the Government for the same period of service.

**Shri N. Sreekantan Nair:** Were any of the strikers victimised?

**Dr. Keskar:** I do not think so.

**Shri B. S. Murthy:** May I know, Sir, whether employment has been given to all those people who were served with notice?

**Dr. Keskar:** I have said that quite a number of them have been immediately offered alternative jobs.

**Shri Punnoose:** The hon. Minister stated that a number of demands were put forward by the workers. May I know when these demands were first put forward and what steps were taken by Government to negotiate matters, before taking the whole thing to a crisis—before the strike broke out?

**Dr. Keskar:** I would not be able to give the dates when the demands were put forward or the periods for which the demands were pending. I read out all the demands just now. There were in all five demands.

**Mr. Speaker:** His point seems to be whether action on the demands was delayed by Government which led to the strike. So he wants to know the period. If he has got the information the hon. Minister may give it.

**Dr. Keskar:** I would require notice of that question.

**Shri Nambiar:** May I know whether the grievances which are not yet redressed will be looked into by Government, so as to avoid another crisis or strike?

**Dr. Keskar:** All legitimate grievances will be looked into.

#### PORTUGUESE BANKS

\*232. **Shri Velayudhan:** Will the Minister of Finance be pleased to state:

(a) whether Government have ordered the closing down of the Portuguese Banks in India; and

(b) if so, how many Banks have been affected?

**The Deputy Minister of Finance (Shri M. C. Shah):** (a) and (b). The Reserve Bank of India, in exercise of the powers conferred by section 22 of the Banking Companies Act, 1949,

served on the Banco Nacional Ultramarino of Bombay, the only Portuguese bank functioning in India, a notice withholding the licence to carry on banking business in India with effect from the 8th September, 1952.

**Shri Velayudhan:** May I know whether the Government of India had any consultation with the Portuguese Government regarding this matter before closing down this bank?

**Shri M. C. Shah:** Yes, Sir, since 1947 the question was agitated. There were exchange difficulties and the monopoly of the exchange transactions vested with this bank. Therefore, the Indian Consul-General at Goa took up the question with them. At first they wanted to have a branch of the Imperial Bank, which was not however pursued. But another bank asked for permission. That permission was not granted. Negotiations were carried on first through the British Embassy at Lisbon and thereafter through our Legation at Lisbon.

**Shri Velayudhan:** May I know what steps the Government of India had taken to safeguard the interests of our people who have deposited money in this bank?

**Shri M. C. Shah:** According to our information and on the enquiries made, the Indian nationals do not suffer at all.

**Shri A. C. Guha:** May I know if the Portuguese Government also has taken any action on any Indian bank functioning or proposing to function in Goa and, if so, what is their number?

**Shri M. C. Shah:** There is no Indian bank in Goa. Permission was not granted by them to open a branch, and that is the reason why we had to take action. The Reserve Bank was constrained to take action because there was discriminatory action taken by the Portuguese Government.

**Shri Veeraswamy:** May I know whether it is the policy of the Government not to allow foreign banks to function in India?

**Shri M. C. Shah:** No, no. Under section 22(3) (e) of the Act, if there is any discriminatory action taken by any Government then the Reserve Bank refuses licences.

#### EDUCATION THROUGH RADIO

\*235. **Shri M. E. Krishna:** Will the Minister of Education be pleased to state:

(a) whether it is a fact that educating the rural population through

Radio is more economical than through regular schools; and

(b) if so, whether attempts are being made to provide radios for this purpose?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) No and in any case Radios cannot be a substitute for schools.

(b) This is the concern of the State Governments.

**Shri M. R. Krishna:** May I know whether any attempt has been made to find out easy and economic means to educate the rural population?

**Shri K. D. Malaviya:** Sir, Government is giving all consideration to such problems.

**Mr. Speaker:** It is really a concern of the State Governments.

#### SURVEY OF ROCKS OF BENGAL ALLUVIUM

\*236. **Shri M. R. Krishna:** Will the Minister of Natural Resources and Scientific Research be pleased to state what are the results of the survey conducted by the Standard Oil Company in the rocks of Bengal alluvium?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** The data collected during the aero-magnetic survey carried out by the Standard Vacuum Oil Company indicates possibilities of favourable results, but this forms only the first part of an extended investigation and further ground survey work and boring for oil will be necessary before it can be said with authority that anything positive will ensue. The Standard Vacuum Oil Company have submitted proposals for carrying out this work. The matter is under Government's consideration.

**Shri M. R. Krishna:** What were the special reasons that led the Government to leave the survey work to the Standard Oil Company alone?

**Shri K. D. Malaviya:** It is a highly specialized work. Very few people come forward to undertake such work.

**Shri Meghnad Saha:** May I know whether their designs were examined critically by scientific officers of the Government?

**Shri K. D. Malaviya:** The aero-magnetic survey was carried out by the Standard Vacuum Oil Company,

but after that we have not made any particular survey.

**Shri Meghnad Saha:** Is the hon. Minister not aware that all these foreign prospectors hold back all the results not only from the public but also from the Government, and is he not aware that some of the oil companies in America have been prosecuted for withholding very important information from their own Government?

**Mr. Speaker:** Order, order. He is giving information.

**Dr. Rama Rao:** May I know whether any Indian scientist was associated with this survey?

**Shri K. D. Malaviya:** Yes, one of our geophysicists was associated with the survey.

**Shri Meghnad Saha:** Is the hon. Minister aware...

**Mr. Speaker:** I may just inform the hon. Member that he might ask for information without making allegations.

**Shri Meghnad Saha:** I am asking for information. Is the hon. Minister quite satisfied that the particular officer who was deputed to work with this Company was never allowed into any of their secrets?

**Shri K. D. Malaviya:** Under the agreement all facilities were given to our representative to be associated with the survey.

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

#### SECTION 144 CR.P.C. IN IMPHAL

\*237. **Shri L. J. Singh:** Will the Minister of States be pleased to refer to the reply to starred question No. 678 asked on the 10th June 1952 and state why on two occasions—one during the Manipur Exhibition at the time of Shri Himmat Singh, the then Chief Commissioner and another during the Dhanamanjuri College strike in 1952 at the time of Shri E.P. Moon, the former Chief Commissioner, Section 144 Criminal Procedure Code was promulgated in Imphal?

**The Minister of Home Affairs and States (Dr. Katju):** In March 1951 and in April 1952 prohibitory orders had to be issued to prevent a possible breach of peace in certain areas of Imphal. I am ascertaining from the Chief Commissioner the exact position.

**Shri L. J. Singh:** My question is this. The hon. Minister said in his reply to my question dated the 10th June 1952 that the Criminal Procedure Code had not been extended to Manipur State and that a proposal for the extension of the Criminal Procedure Code to Manipur with a suitable modification was under consideration. But may I know why Section 144 of this Criminal Procedure Code was promulgated in Imphal once during Chief Commissioner Shri Himmat Singh's time and again during the former Chief Commissioner Mr. Moon's time? That is my question.

**Dr. Katju:** Sir, my hon. friend is only repeating the question. I have already said that I did give that answer. Orders were made. I am asking the exact position as to the exact circumstances under which those orders were made. I understand that there is a certain area which is called Dominion Reserve, a small area in which there is a Manipur Dominion Reserve Application of Laws Order passed in 1948 that prevails. I do not know the exact circumstances. But the two Chief Commissioners have gone and a third has come into existence, and these are really very old matters. What is the good of raising them?

#### COMPENSATION TO PEOPLE OF NAGA HILLS

\*238. **Shri L. J. Singh:** Will the Minister of Defence be pleased to refer to the reply to starred question No. 1031 asked on the 19th June 1952 and state:

(a) whether the people of Naga Hills were compensated for the war damages including those wrought as the result of the enemy action; and

(b) if the answer to part (a) above be in the affirmative, whether Government propose to pay compensation to the people of Manipur who suffered damages wrought as the result of the enemy action?

**The Minister of Information and Broadcasting (Dr. Keskar):** (a) In the Naga Hills District of Assam, the people were compensated for damages caused as a result of Allied action only.

(b) Does not arise.

**Shri L. J. Singh:** The hon. Minister in his reply to my question No. 1031 asked on the 19th June, 1952 admitted that damages done as a result of enemy action were also included in the war damages; and again in his reply

to question No. 866 asked on 7th September 1951 he had stated that compensation to the tune of Rs. 30 lakhs was paid to the people of Kohima for war damages, including those wrought as a result of enemy action, over and above the war compensation already paid to Manipur and Kohima. May I know why compensation for war damages as a result of enemy action should not be paid to the people of Manipur who suffered the same damages and why Manipur and Kohima should not be treated on the same footing at least in this regard?

**Dr. Keskar:** I am afraid my friend is under a misapprehension. Both are treated on the same footing. In fact it is very difficult, except in specified cases, to differentiate between damages caused by Allied and enemy action especially in cases of bombings. We have been very generous in the matter of paying compensation to all persons who came forward, and as the House is aware Rs. 2 crores and more have been paid. Probably the hon. Member is under a misapprehension because in the payment of the Rs. 30 lakhs it was said that it was done as compensation for enemy action. It includes both.

#### INDO-TURKISH CULTURAL AGREEMENT

\*239. **Dr. Ram Subhag Singh:** Will the Minister of Education be pleased to state:

(a) whether the Indo-Turkish Cultural Agreement signed on June 29, 1951, has been ratified by the two Governments; and

(b) if so, whether any Indian scholar has been sent to Turkey under this agreement and *vice versa*?

**The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya):** (a) Yes, Sir.

(b) No, Sir.

**Dr. Ram Subhag Singh:** Has Government sent any expert to Turkey or has any expert come from Turkey for training, as contemplated in the Agreement?

**Shri K. D. Malaviya:** In 1949 one student was sent from here under the scheme and one has been accepted by the Turkish Government.

**Dr. Ram Subhag Singh:** I would like to know, Sir, what activity does this Agreement provide except the sending out of the students?

**Shri K. D. Malaviya:** Sir, under this Agreement, various facilities for

exchange of cultural knowledge between the two countries have been provided for.

**Shri A. M. Thomas:** May I know Sir, whether we will have additional Community projects under the Norwegian Agreement?

**Mr. Speaker:** There appears to be some misapprehension. It relates to the next question.

**Shri Chattopadhyaya:** May I know Sir, whether Government are contemplating inviting a Cultural Delegation from Turkey and if so, will it include men like great Nizam Hikmet?

#### FIVE YEAR PLAN

\*240. **Dr. Ram Subhag Singh:** Will the Minister of Finance be pleased to state :

(a) whether it is a fact that the Government of Norway has agreed to help India's Five Year Plan; and

(b) if so, what amount of money has Norway agreed to give India as her contribution to the development plans?

**The Minister of Finance (Shri C. D. Deshmukh):** (a) Yes, Sir.

(b) An initial amount of Norwegian Kroners 10 million equivalent to about Rs. 67 lakhs has been provided for this purpose. A copy of Agreement entered into between the Norwegian Government and the Government of India and the United Nations is available in the Library of the House.

**Dr. Ram Subhag Singh:** May I know, Sir, the specific purpose for which this loan is going to be given to this country?

**Shri C. D. Deshmukh:** Towards the development of the country.

**Dr. Ram Subhag Singh:** May I know whether Norwegian officials are also going to be associated for carrying out the development of the country?

**Shri C. D. Deshmukh:** No, Sir. A Norwegian Delegation headed by Professor Swerdup has arrived in this country with the object of getting a general idea of the development programme and to find out the precise way in which their assistance could be utilised for some select scheme or schemes.

**Shri A. M. Thomas:** May I repeat the other question, whether the Government can have any additional Community Development Project under the Norwegian Agreement?

**Shri C. D. Deshmukh:** It is not anticipated, Sir, that this sum will be utilised towards the establishment of any additional Community Projects.

**श्री हेमराज :** नार्वेजियन कमीशन ने श्री भारतवर्ष का दौरा किया है उस सरकार से जो सहायता मिलेगी उसमें क्या भारत सरकार ने उस के खर्च के लिये कोई स्कीम बनाई है ?

**श्री सी० डी० देशमुख :** उनके खर्च के लिये भारत सरकार ने कोई स्कीम बनाई है ?

**अध्यक्ष महोदय :** मैं समझता हूँ कि सवाल यह है कि जो एड (aid) वह देने वाले हैं उस के बारे में क्या भारत सरकार ने बिहार के लिये कोई स्कीम बनाई है ?

**श्री हेमराज :** मैं ने पूछा भारत के लिये जो एड नारवे सरकार से मिली है उस के खर्च के लिये भारत सरकार ने कोई स्कीम बनाई है ?

**श्री सी० डी० देशमुख :** भारत के लिये तो सास कर बनाई ही जायगी ।

**Shri A. C. Guha:** Has this amount been earmarked for any particular scheme of development or a particular work?

**Shri C. D. Deshmukh:** As I have said the Delegation has arrived in this country to discuss with us particulars of the scheme. Throughout the meetings with our representatives and the Planning Commission, for the purposes of discussion we suggested certain schemes to them. Some are in the Himalayan Coniferous Regions and some for the development of the Travancore-Cochin area, another for the development of the Assam forest region and so on. The idea was to find the schemes where Norway could assist us with special experienced technical guidance and special supplies available in Norway. The Delegation has visited Kulu Valley and probably will be on their way to the Travancore-Cochin area. They returned from Kulu. I am informed they have come back from Travancore-Cochin. A further meeting

will be held between them and the Government of India representatives and the Planning Commission and we hope that finally a project will be selected.

**Shri H. N. Mukerjee:** Did the Government of India approach the Norway Government for assistance or was it the other way about? May I also know whether it is in conformity with the honour and self-respect of our country to go round with the beggar's bowl?

**Mr. Speaker:** Order, order.

**Shri C. D. Deshmukh:** The other way about. I cannot see any violation of honour in accepting an offer of assistance made with the utmost friendliness.

**Mr. Speaker:** Whether the Government of India approached them for assistance or they offered it?

**Shri C. D. Deshmukh:** He asked was it the other way? I said the other way. We did not apply.

**Shrimati Benu Chakravarty:** The hon. Finance Minister said that the Agreement was also signed by the United Nations. What has the United Nations got to do with this Agreement? Is it on any particular scheme?

**Shri C. D. Deshmukh:** At the choice of the Government Norway processed this through the United Nations to give it an international character.

#### SHORT NOTICE QUESTION AND ANSWER

##### PERSONS OF INDIAN DESCENT IN CEYLON

**Shrimati A. Kale:** Will the Prime Minister be pleased to make a statement on the latest position in Ceylon in regard to persons of Indian descent there and in particular his understanding of the term "ordinarily resident" with reference to the discussions which took place between him and the late Prime Minister of Ceylon in 1948?

**The Prime Minister (Shri Jawaharlal Nehru):** The House will remember, Sir, that on the first day of this session, i.e., the 5th of November, a question was put to me by Professor Agarwal in regard to the rights of Ceylon citizens of Indian descent. My colleague, the Deputy Minister, answered that question. In the course of his answer, he expressed the hope that steps would be taken by the Ceylon Government to administer the Act governing citizenship in such a manner as to improve the conditions of such persons in Ceylon and facilitate their achievement of the franchise.

I regret to say that developments since then have belied this hope and the outlook at present is a depressing one. Recently an amending Bill to that Act has been introduced in the Ceylon Parliament. If this is enacted, the effect on the persons of Indian descent in Ceylon will be far-reaching. Out of a total of about seven lakhs and odd of Ceylon citizens of Indian descent, the vast majority would be excluded from the franchise. In addition, being denied citizenship rights, they would be subjected, as they are subjected now, to numerous disqualifications and difficulties such as being deprived of the Social Security and Insurance Schemes. There is some difficulty for them even to draw their rations. This is thus an important and urgent matter and I earnestly hope that the Ceylon Government will take a broad view in a matter affecting hundreds of thousands of their citizens.

Some days ago, I addressed a personal appeal to the Prime Minister of Ceylon expressing this hope. I regret that that appeal bore no fruit.

These persons of Indian descent in Ceylon are not Indian nationals. Most of them were born in Ceylon and they have lived there nearly all or a great portion of their lives. If Ceylon citizenship is denied to them, they become Stateless. To produce such an extraordinary state of affairs cannot surely be the object of any Government.

The amending Bill before the Ceylon Parliament has apparently been occasioned by a judgment of the Privy Council which upheld the decision of the Supreme Court of Ceylon. The question at issue is the interpretation to be put on the term "ordinarily resident" which occurs in the Ceylon, Indian and Pakistani Residents Citizenship Act of 1949. The Prime Minister of Ceylon has expressed his intention to give effect to the spirit and letter of his father, the late Prime Minister of Ceylon's undertaking in this matter. I am, to some extent, personally concerned, as I had the advantage of long discussions with the late Prime Minister of Ceylon in 1948. I can claim, therefore, to say what I understood the late Prime Minister had said and meant about this matter. Indeed, the original proposal was that of the late Prime Minister of Ceylon and I agreed to it. This was to the effect that as a proof of an applicant's real intention to make Ceylon his permanent home he should have his wife and minor children ordinarily resident with him. I should have thought that the meaning was clear. But the Ceylon Commissioner for Registration

decided otherwise and stated:—

- (1) that the applicant's wife from the date of her marriage or the 1st January 1939, whichever is later; and
- (2) that each minor dependent child should be resident with him from the 1st January 1939 or the date of birth, whichever is later.

This made even the husband's permanent settlement in Ceylon dependent not on his own qualifications, but, in addition, to his wife's and children's residence. The Supreme Court of Ceylon rejected the Commissioner's interpretation. This matter was then taken up to the Privy Council by the Government of Ceylon. The Privy Council upheld the decision of the Supreme Court and remarked, *inter alia*:

"There is no express provision in the Act that the husband's permanent settlement in Ceylon must have been achieved in company with his wife and children, or that the minimum period of uninterrupted residence required for the husband has any application to his wife or children."

The Privy Council further remarked that:

"It would be an extraordinary provision that the husband should have to prove for the purpose of his own registration that his wife had been ordinarily resident in Ceylon for a longer period than it was necessary to prove in applying for his wife's registration."

The judgment of the Privy Council, which, if I may say with all respect, was the obvious interpretation to be put on the Act as well as on the discussions which had preceded the Act, was generally welcomed in Ceylon and India. We hoped that this would be a beginning of settling this long-standing and vexing controversy which has come in the way of developing that friendly and co-operative relationship between our countries which all of us so desire and which geography, culture and history indicate. I regret greatly that the Ceylon Government have taken a contrary view and are now attempting by means of an amending Bill, to override the decision of their own Supreme Court and the Privy Council. This proposed amendment is not, in my opinion, in conformity with the views of the late Prime Minister of Ceylon as they were expressed to me in the course of long discussions. A record of those discussions was

subsequently published. I am unable to understand how those views can be reconciled with the proposed amendment to the Ceylon Act. Indeed, this amendment appears to me contrary to the agreement arrived at between the late Prime Minister of Ceylon and me. I have no doubts about this matter. If the Prime Minister of Ceylon has any such doubts, the matter can be considered. I am prepared to agree to a fuller consideration of this matter in all its aspects and even to a reference to an independent authority agreed to by both parties.

I earnestly hope that no hurried decision will be taken in a matter of this great consequence. As I have said at the beginning of this answer, the Prime Minister of Ceylon has recently taken some steps which gave us some hope that the position of Ceylon citizens of Indian descent would be eased somewhat. It is in that direction that a solution lies and not in doing something which makes that position an exceedingly difficult one.

#### WRITTEN ANSWERS TO QUESTIONS

##### SETTLEMENT OF EX-SERVICEMEN

\*227. **Shri Buchhikotaiah:** (a) Will the Minister of Defence be pleased to state how many colonisation schemes have been started for settling ex-servicemen?

(b) Have co-operative societies been formed in all these colonies?

(c) Have any complaints been received regarding the working of these colonies?

(d) If so, what are the reports and what action has been taken on them?

**The Deputy Minister of Defence (Sardar Majithia):** (a) Nine Land Colonisation Schemes have been started for settling ex-servicemen in the Punjab, Uttar Pradesh, Bhopal, Hyderabad, Madras, Mysore and Travancore-Cochin.

(b) No, except for a Tenant Farming Co-operative Society at Jambuvanodi Colony in Madras State.

(c) No, Sir.

(d) Does not arise.

##### TOBACCO DUTY

\*233. **Shri Balmiki:** Will the Minister of Finance be pleased to state:

(a) the States from where the complaints of excessive tobacco duty were



brought to the notice of Government in the years 1950-51 and 1951-52; and

(b) how far the administration of the laws on the subject has been responsible for that?

**The Minister of Revenue and Expenditure (Shri Tyagi):** (a) Occasional complaints have been received of excessive assessment made by Central Excise Inspectors of tobacco cultivators' produce, in certain areas of the States of Uttar Pradesh, Punjab and Rajasthan in which tobacco is sparsely grown.

(b) In districts where tobacco is sparsely cultivated in a large number of plots scattered over wide areas, it has not been possible for the Central Excise Inspector to contact all the producers, at the proper time, for purposes of assessment of the tobacco produced. Some producers are suspected to have taken advantage of the situation, and to have disposed of part or the whole of their tobacco without payment of duty. Where this has happened, Central Excise Inspectors have had to resort to summary assessments in preference to taking penal action against the producers. Such assessments may have sometimes resulted in over-assessments. In order, therefore, to eliminate, as far as possible, the risk of such evasions of duty by producers, as well as of over-assessment by the Central Excise Inspector, Government have under consideration a scheme of (i) registration of tobacco-growers by the State Government's village officers, (ii) systematization of crop-cutting experiments, and (iii) recoveries by the State Government's Lambardars, or other village officers, of assessments made by Central Excise Inspectors on the basis of such experiments.

#### NATIONAL SAVINGS CERTIFICATE

**\*234. Shri Krishna Chandra:** (a) Will the Minister of Finance be pleased to state whether the investments under the National Savings Certificate during 1951-52 in certificates of ten rupees has been only Rs. 17.18 lakhs of rupees as against 199.21 lakhs in 100 rupee certificates?

(b) If so, what steps do Government propose to take to tap small savings under the National Savings Certificate Scheme?

**The Minister of Finance (Shri C. D. Deshmukh):** (a) Yes, Sir.

(b) Without accepting the inference that investments in 100 rupee certificates do not represent Small Sav-

ings, I may say that Government is taking various steps to popularise the Small Savings Scheme through publicity and propaganda and by appointing authorised agents in certain States and extra-departmental Branch Post-masters in rural areas for the sale of National Savings Certificates on commission.

#### COMMONWEALTH FINANCIAL TALKS

**\*241. Shri K. Subrahmanyam:** (a) Will the Minister of Finance be pleased to state whether at the recent Commonwealth financial talks in London, the question of India's withdrawal from the Sterling Area was discussed?

(b) If the answer to part (a) above be in the affirmative, what were the conclusions arrived at?

(c) If the answer to part (a) above be in the negative, will it be considered at the forthcoming conference of Commonwealth Prime Ministers?

(d) How much do the 'invisible profits' from the Sterling bloc accrue to Britain's account every year, on an average?

(e) What is the percentage of India's contribution to them?

(f) In what way is India benefited by remaining in the Sterling Area?

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

(b) Does not arise.

(c) This does not seem to be likely.

(d) and (e). It is not possible to say what profits if any, the U.K. derive from India or other countries being in the Sterling area. But if the Member has in mind invisible receipts such as those derived from shipping, insurance and other services, as well as various types of remittances, the U.K.'s net invisible receipts from the Sterling area were Rs. 343 crores and from India Rs. 8 crores in 1951.

(f) The main benefits which accrue to India from her membership of the Sterling area are (i) sterling being a widely used international currency, it enables her to secure the largest possible level of multilateral trade, and (ii) India is able to meet her wide fluctuations in trade and payments with other countries by the use of the Central gold and dollar reserves of the Sterling area.

**AID FROM RUSSIA**

\*243. **Shri K. E. Sharma:** Will the Minister of Finance be pleased to state:

(a) whether Government received any offer of financial aid for development work from Russia; and

(b) whether Russia contributes to the mutual aid funds under the United Nations Organisation?

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

(b) As far as we know Russia does not contribute to any of the Assistance Programmes of the United Nations Organisation.

**धूसखोरी तथा [4न**

\*२४४. **श्री सिंहासन सिंह:** (क) क्या गृह-कार्य मन्त्री यह बतलाने की कृपा करेंगे कि केन्द्रीय सरकार की ओर से १९५२ में अब तक उस के अपने पदाधिकारियों के विरुद्ध—धूसखोरी, ग़बन इत्यादि के सम्बन्ध में कितने अभियोग चलाये गये हैं?

(ख) उनके फलस्वरूप कितनों को दण्ड दिया गया तथा कितने पदाधिकारियों को सन्देश के कारण वीर कितनों को निर्वासन हान के कारण छोड़ दिया गया? इन सब के पद भी बताये जायें।

(ग) क्या सरकार को विदित है कि गार्ग तथा साउथ एवेन्यू, नई दिल्ली में संसद् सदस्यों के लिए हाल में जो फ्लैट्स बनाये गये हैं उन में जो फर्नीचर तथा अन्य वस्तुएं दी गई हैं उन का मूल्य सरकार से बाजार भाव से १०० से २०० प्रतिशत तक अधिक लिया गया था और क्या सरकार इस विषय में कोई जांच करवाने को तैयार है?

**The Minister of Home Affairs and States (Dr. Katju):** (a) and (b)—

Instituted	... 61
Convicted	... Nil
Benefit of doubt given	... Nil
Acquitted	... 3

Others are pending.

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These figures are up to 30th September, 1952. It is not possible to give designations in each case without longer notice. But it may be stated that the persons accused include an Executive Engineer of the Railway, a Controller of Stores (Telegraphs), subordinate Postal Staff, Station Masters, Clerks and other subordinate Railway Staff, overseers and other subordinate staff of the Central Public Works Department, subordinates of Excise Department, Military officers and subordinates, etc.

(c) Attention in this connection is invited to the answer given by the Minister for Works, Housing and Supply to Unstarred Question No. 587 by Shri M. L. Agrawal on the 29th July, 1952.

**SCHOLARSHIPS BY FOREIGN FIRMS**

81. **Dr. Amin:** Will the Minister of Education be pleased to state:

(a) whether Government have any control over the scholarships which are being offered to the Indian Students by certain foreign firms for higher studies abroad; and

(b) if the answer to part (a) above be in the affirmative, the total number of persons who received such scholarships during the year 1952?

**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** (a) No, but assistance in selection when asked for is given.

(b) Ten Scholars were selected through the Government of India.

**EXCAVATIONS IN RAJASTHAN**

82. **Shri Karni Singhji:** Will the Minister of Education be pleased to state:

(a) the results obtained by excavations recently made in the northern part of the Bikaner Division (Rajasthan);

(b) where the finds of historical value are proposed to be kept; and

(c) to what period these finds date back?

**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** (a) to (c). A statement is placed on the Table of the House. [See Appendix II, annexure No. 3.]

**DEPOSITS BY PRESSES**

83. **Shri N. P. Sinha:** Will the Minister of Home Affairs be pleased to state which of the Presses in the

Centrally administered States of India deposited security demanded by Government and the amount deposited by each in the years 1949, 1950, 1951 and 1952?

**The Minister of Home Affairs and States (Dr. Katju):** I lay on the Table of the House a statement giving the information asked for by the hon. Member. [See Appendix II, annexure No. 4.]

#### FINANCIAL AID TO NON-GOVERNMENT CONCERNS

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

(a) whether Government have rendered any financial aid in the form of loan or share capital or any other cash payment to any non-government concerns or industrial firms since August 1946; and

(b) if so, the list of and the conditions and agreements with, such concerns and firms?

**The Minister of Revenue and Expenditure (Shri Tyagi):** The information is being collected and will be laid on the Table of the House in due course.

#### GIRL GUIDES' ORGANISATION

**85. Shri Madiab Gowda:** Will the Minister of Education be pleased to state the amount of grant given by the Central Government to Scout and Girl Guides' Organisation in India, annually for the last five years?

**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** A statement is placed on the Table of the House. [See Appendix II, annexure No. 5.]

#### DETENTION WITHOUT TRIAL

**86. Shri Keshavnagar:** (a) Will the Minister of Home Affairs be pleased to state how many persons are put under detention without trial since 1st August, 1952 in the country State-wise?

(b) How many of them are so put in for political reasons?

(c) How many for other causes?

(d) What is the nature of the several causes they are so put under detention?

(e) How many of them are alleged to be black marketeers?

(f) Are Tribunals established all over the country in all the several States and if only in some which are

those States and who are the personnel?

**The Minister of Home Affairs and States (Dr. Katju):** (a) to (e). The information is being collected and will be laid on the Table of the House in due course.

(f) Presumably, by "Tribunals" the hon. Member means the Advisory Boards constituted under the Preventive Detention Act, 1950, as recently amended. Information is being collected from State Governments regarding the composition of such Boards and will be laid on the Table of the House in due course.

#### EXPERT COMMITTEE (EXCISE)

**87. Dr. Amin:** Will the Minister of Finance be pleased to state:

(a) the date on which the report of the Expert Committee (Excise) was submitted to Government;

(b) the total amount of money spent on the establishment and the working of this Committee; and

(c) the action Government propose to take on the recommendations of this Committee?

**The Minister of Revenue and Expenditure (Shri Tyagi):** (a) The Report of the Expert Committee was submitted to the Government of India on the 15th September 1951.

(b) Rs. 24064/4/- according to the information available in this Ministry. This figure should, however, be treated as provisional as particulars relating to some more expenditure that may have been incurred in this connection by subordinate organisations under the Central Board of Revenue cannot be collected immediately due to the short notice given.

(c) Attention of the hon. Member is invited to the reply given to item (b) of his Starred question No. 1870 on the 18th July 1952. Action has since been initiated on each of the various recommendations of the Committee. The State Governments have been addressed on all those recommendations the implementation of which falls within their constitutional powers. Consideration of the introduction of legislation in Parliament to prescribe uniform rate of duty throughout India on medicinal and toilet preparations containing spirit, opium and other narcotic drugs, is in an advanced stage. The complex question of the control of inter-State trade in those preparations is also receiving attention.

## PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

## OFFICIAL REPORT

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## HOUSE OF THE PEOPLE

Wednesday, 12th November, 1952

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

[MR. SPEAKER in the Chair]

## QUESTIONS AND ANSWERS

(See Part I)

11-54 A.M.

WEST BENGAL EVACUEE PROPERTY  
(TRIPURA AMENDMENT) BILL

The Minister of Home Affairs and States (Dr. Katju): I beg to move for leave to introduce a Bill further to amend the West Bengal Evacuee Property Act, 1951 as extended to Tripura.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the West Bengal Evacuee Property Act, 1951, as extended to Tripura."

The motion was adopted.

Dr. Katju: I introduce the Bill.

## MOTION FOR ADJOURNMENT

FAST BY SHRI POTTI SRIRAMULU FOR THE  
FORMATION OF THE ANDHRA PROVINCE

Mr. Speaker: I am sorry, I forgot to mention notice of an adjournment motion received by me. The motion is that the meeting be adjourned to consider the situation arising out of the fast unto death undertaken from the 19th October, 1952, to further the cause of the speedy formation of the Andhra Province by Shri Potti Sriramulu, whose condition is, according to Press reports fast deteriorating and, as any mishap in this case is likely to disturb the peace of the State of Madras, particularly the Andhra area.

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Well, I do not think I need say at any length why I am not inclined to give my consent to such an adjournment motion as that. In the first place, the question of linguistic provinces was recently discussed by this House at full length and *prima facie*, a further reconsideration of the question is barred under our rules of procedure.

As regards, of course, the fast undertaken, with all sympathy for the gentleman who is fasting, it is not possible for us to take cognizance of such fasts of individuals, howsoever well-meant they may be. I cannot treat it as a concern of this House collectively.

Then, the possibility of the motion being admissible is brought in at the end by saying that the fast or any untoward end of the fast is likely to disturb the peace of the State of Madras, particularly in the Andhra area. Clearly, it is the business of the Madras Government to see that law and order, or peace and tranquility reign there properly. I do not think the House is concerned.

Shri B. S. Murthy (Eluru): Can I say a word, Sir?

Mr. Speaker: Not now. I am withholding consent. The motion is not before the House.

## DELIMITATION COMMISSION BILL

The Minister of Law and Minority Affairs (Shri Biswas): I beg to move:

"That the Bill to provide for the readjustment of the representation of territorial constituencies in the House of the People and in the State Legislative Assemblies and for matters connected therewith, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Shri Bhawanji A. Khimji, Shri Syamnandan Sahaya, Shri Gajendra Prasad Sinha, Shri K. L. More, Pandit Lingaraj Misra, Shri Rohini Kumar Chaudhuri, Pandit Lakshmi Kanta Maitra, Shri Mohanlal Saksena,

[Shri Biswas]

Shri N. M. Lingam, Shri Udai Shankar Dube, Choudhary Raghubir Singh, Shri Nemi Chandra Kasliwal, Shri Ranbir Singh Chaudhuri, Shri Govind Hari Deshpande, Sardar Amar Singh Saigal, Shri Kotha Raghuramaiah, Shri Krishnacharya Joshi, Shri Lilladhar Joshi, Shri A. M. Thomas, Shri C. R. Basappa, Shri C. Madhao Reddi, Shri Choithram Partabrai Gidwani, Shrimati Renu Chakravartty, Shri P. T. Punnoose, Shri Girraj Saran Singh, Dr. Manik Chand Jatav-vir, H. H. Maharaja Rajendra Narayan Singh Deo, Shri N. R. M. Swamy, Shri Radha Charan Sharma, Shri Ranjit Singh, Shri P. N. Rajabhoj, Shri Awadheshwar Prasad Sinha, Shri Shankar Shantaram More, Shri B. S. Murthy, Shri N. C. Chatterjee, Dr. Syama Prasad Mookerjee and the Mover with instructions to report by the 22nd November 1952."

The members are the same as those on the Select Committee which the House appointed yesterday for the other Bill, viz., the Constitution (Second Amendment) Bill. I hope, Sir, the House will not take such a long time as it did in connection with the other Bill yesterday.

[MR. DEPUTY-SPEAKER in the Chair]

Shri T. N. Singh (Banaras Distt.—East): On a point of information, are the names the same as in the Select Committee appointed yesterday?

12 NOON.

Shri Biswas: Yes, I have stated that already.

This Bill is a measure which does not involve any amendment of the Constitution, but which Parliament is not only empowered, but required, by the existing provisions of the Constitution to enact.

If you will refer, Sir, to article 81 (3), you will find it is distinctly provided there that:

"Upon the completion of each census, the representation of the several territorial constituencies in the House of the People shall be readjusted by such authority, in such manner and with effect from such date as Parliament may by law determine."

You find a similar provision in article 170 (4) as regards the territorial constituencies in the Legislative Assembly of each State.

The object of this Bill is to set up the requisite machinery to give effect to these provisions of the Constitution.

I hope, Sir, that hon. Members have read the Bill. The Bill speaks for itself. The machinery now proposed is, of course—I will not say "of course"—a departure from what was provided for the last general elections. As regards the last general elections, the procedure was laid down in the Representation of the People Act, 1950. Section 13 of that Act provided that:

"After the commencement of the Act, the Speaker shall set up an Advisory Committee in respect of each Part A State, and Part B State"—

excluding Jammu and Kashmir, of course—

"That Advisory Committee will consist of not less than three, and not more than seven Members of Parliament representing that State; and in respect of each Part C State other than Bilaspur, Coorg and the Andaman and Nicobar Islands, the Advisory Committee will consist of a Member or Members of Parliament representing that State."

Then, Sir, the Election Commission was required under that section to formulate certain proposals for delimitation in consultation with the Advisory Committee, and then these proposals were to be submitted to the President for making the orders which were envisaged in sections 6 and 9, as well as section 11, with which we are not now concerned, and the President, after he made the order was to send it on to Parliament, and Parliament was given the right to make such modifications as it considered proper, within 20 days from the date on which the order was placed before the House.

The experience of the last election was such as does not encourage a repetition of the same procedure now. We are now called upon to readjust the representation in these various constituencies in accordance with the population figures, arrived at the last census. And what is now suggested is that for the purpose of making this delimitation, there should be a high-powered and independent Committee, which will inspire public confidence. The proposal, accordingly, is that a Commission will be set up consisting of two persons who shall be or were Judges of the Supreme Court or of a High Court. And with these two Members, the Election Commissioner will be associated. It will be recognised that the Election Commissioner is a person most competent to sit on such a Commission. He is familiar with the details of the delimitation which was effected for the purpose of the last general elections; the other

necessary data are also in his possession. I venture to submit, Sir, that such a body consisting of two Judges either of the Supreme Court or of a High Court, and the Election Commissioner, ought to be accepted without any question. You could not possibly think of any Commission more independent, more free from all sorts of extraneous influences—political and other influences—and therefore, it will certainly command public confidence. If you refer to the opinions which have been obtained on this Bill, you will find that suggestions have been made that the last word should be left with Parliament as on the last occasion. The matter was considered by Government very carefully, and they have come to the conclusion that it would be best to leave out Members of Parliament from the Commission altogether, as a result of actual experience on the last occasion.

Another question which might be raised is this. Though the Election Commissioner might be depended upon to know something about the conditions in the various States, still he will not possess that amount of local knowledge regarding the various constituencies into which the States may be divided, as will be necessary for effectively carrying out the work of delimitation. The proposal accordingly is that whenever the Commission is delimiting the constituencies in any particular State, there should be between two to four Members co-opted.....

**Shri S. S. More (Sholapur):** Not co-opted, but nominated by the Speaker.

**Shri Biswas:** They will be co-opted to the Commission. They will not be elected, but they will be nominated by the Speaker of the State Assembly concerned. That is the proposal.

**Shri S. V. Ramaswamy (Salem):** They will be associated Members.

**Shri S. S. More:** If they are co-opted, they get the right of voting.

**Shri Biswas:** Let me complete what I want to say (*Interruptions*).

**Mr Deputy-Speaker:** What I would urge on hon. Members is that they may allow the hon. Minister to go on in the manner in which he wants to place the motion before the House. If there are any points, they may be noted down, and then put forward for enlightenment or elucidation.

**Shri Biswas:** When I said co-opted, I thought hon. Members would appreciate that co-option does not necessarily carry with it the right to vote.

**Shri S. S. More:** We differ.

**Shri Biswas:** Neither does it carry the idea that the member will be elected. Whether elected or nominated, he is co-opted, and whether he has the right to vote or not, he is still a co-opted Member. I want to point out that although these Members, whose number is between two to four, are nominated by the Speaker of the State Assembly, from among the Members of that Assembly or from among the Members of Parliament representing that particular State, still none of the persons so associated with the Commission shall have a right to vote or to sign any final decision of the Commission. They will certainly take part in the deliberations of the Commission, when they are delimiting the constituencies, but the final word will rest with the Members of the Commission, and not with these co-opted Members. That is the proposal in this Bill.

Then, in clause 7 of the Bill some directions have been given in very general terms, regarding the principles which the Commission will follow in making the delimitation. It is possible to take different views on many of these questions. In fact different views have been expressed by some of those whose opinions are before you. I suggest that it is not necessary to discuss the merits of the different views here in this House, because they will all be before the Select Committee which being a very representative one, will examine all these proposals on their merits, and then accept such of them as may commend themselves to the Select Committee.

**Mr. Deputy-Speaker:** Motion moved:

“That the Bill to provide for the readjustment of the representation of territorial constituencies in the House of the People and in the State Legislative Assemblies and for matters connected therewith, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Shri Bhawanji A. Khimji, Shri Syamnandan Sahaya, Shri Gajendra Prasad Sinha, Shri K. L. More, Pandit Lingaraj Misra, Shri Rohini Kumar Chaudhuri, Pandit Lakshmi Kanta Maitra, Shri Mohanlal Saksena, Shri N. M. Lingam, Shri Uday Shankar Dube, Choudhary Raghubir Singh, Shri Nemi Chandra Kasliwal, Shri Ranbir Singh Chaudhuri, Shri Govind Hari Deshpande, Sardar Amar Singh Saigal, Shri Kotha Raghuramaiah, Shri

[Mr. Deputy-Speaker]

Krishnacharya Joshi, Shri Laldhar Joshi, Shri A. M. Thomas, Shri C. R. Basappa, Shri C. Madhao Reddi, Shri Choithram Partabrai Gidwani, Shrimati Renu Chakravartty, Shri P. T. Punnoose, Shri Girraj Saran Singh, Dr. Manik Chand Jatav-vir, H. H. Maharaja Rajendra Narayan Singh Deo, Shri N. R. M. Swamy, Shri Radha Charan Sharma, Shri Ranjit Singh, Shri P. N. Rajabhoj, Shri Awadheshwar Prasad Sinha, Shri Shankar Shantaram More, Shri B. S. Murthy, Shri N. C. Chatterjee, Dr. Syama Prasad Mookerjee and the Mover with instructions to report by the 22nd November 1952."

**Shri Damodara Memon (Kozhikode):**  
I am glad that this Bill has been referred to the same Select Committee as the one to which the Constitution (Second Amendment) Bill was referred yesterday. I say this in the hope that the Select Committee may find its way to drop the Constitution (Second Amendment) Bill altogether, after its deliberations.

Now, coming to this Bill, I agree that the constitution of the Delimitation Commission as provided in clause 3 of this Bill is something to which nobody can take any exception. The impartiality of the Commission will be maintained, if the members of the Commission are Judges rather than politicians associated with political parties or organisations.

There are one or two aspects in the Bill, which I think deserve revision. In the first place I want to place before the House the one relating to associated members. Provision has been made for the Commission to have two to four members nominated from among the members of the State Legislatures as also from the House of the People, to assist them in their work, and these members have no right to vote. That is a good provision so far as it goes. But in choosing these members, there is no direction given in this clause that members of the Opposition must find adequate representation. I think it is very necessary that in a matter like this members of the Opposition should be able to sit with the Commission and offer them the benefit of their advice. The clause provides for two to four members only. I do not know how the Opposition can be accommodated, if we keep down to these numbers. Take, for instance, a small Part B State like Travancore-Cochin. The number of such associated members, from that State may pro-

bably be two. Within that number, we have to find provision for a member of Parliament. So there will be one member from the State Legislative Assembly and one from the House of the People. If we keep to that number, then the nominating authority will be faced with difficulty in accommodating a member of the Opposition.

Another point I want to emphasize is this. In sub-clause (2) of clause 5, the power to nominate associated members is given to the Speaker of the Legislative Assembly of the State. I wonder why the power to nominate members of the House of the People also should be given to him. The proper authority to nominate members of the House of the People as associate members, is the Speaker of the House of the People. I am sure this matter deserves close attention and that the Select Committee will go into it.

Sir, in clause 7(a) it is provided, naturally, that the Commission shall determine the total number of seats to be allotted to the various States in the House of the People and in doing so, they shall have regard to the provisions of clause (1) of article 81. As I suggested, this brings in the Constitution (Second Amendment) Bill also. Sir, there we are faced with two rather unwelcome alternatives. If we increase the total number of members of the House of the People, we are faced with a very unwelcome possibility, and that is, the House will become rather unwieldy. That is something to be avoided. If, on the other hand, we increase the maximum number under clause (1)(b) of article 81, then the constituencies will become unwieldy. Therefore, there are two alternatives: an unwieldy House or an unwieldy constituency. I again suggest, Sir, that this is a matter that requires close consideration and it would be better if we can avoid both these difficulties, and the best way to do that is not to attempt any amendment of the Constitution at present. I hope, Sir, that these suggestions will appeal to the Select Committee when it begins its deliberations.

**Shri Raghubachari (Penukonda):**  
Sir, this Bill requires to be looked at not purely from the technical or formal point of view, but in the light of democracy and the principles we are committed to observe. From one end to the other, the members that should finally decide about this delimitation are people nominated or appointed not by this House or by any other House. The Commission itself is appointed by this Government and then the associate-members are

appointed—I would rather say, nominated—by the Speakers of the Assemblies; the final word appears to be with the Commission, and its decision is final without reference to any Legislature—either this Parliament or the local Legislatures. From one end to the other we find the basis for this Bill is nomination and authority, so derived. Of course, it must be accepted that they have shown a grudging respect: it may also include a member of Parliament if he happens to be nominated by the Speaker of any local Legislature. And that is all. The Law Minister referred to some previous experience when final recommendations came before this Parliament and, therefore, he said in the light of that experience he fears a similar experience which he wishes to avoid, and therefore, the Government in consideration of this past experience came to the conclusion not to have anything to do with this Parliament again. Well, that is rather unfortunate, so I feel, Sir.

You will also please remember the experiences and the impressions left in the minds of the members about the final decision of the Delimitation Committees on the previous occasion. We know, Sir, and the Deputy-Speaker himself as the President of one of such Committees in Madras State should have been impressed, that many a time the considerations were not purely the application of the principles, but how to bring about a delimited constituency which is expected to be helpful, favourable or safe for a particular member. Well, I deliberately make that suggestion because that is the impression which is perfectly plain to my mind, at any rate, so far as the constituencies that were delimited in my own district are concerned. It might be recalled, Sir, that a constituency was composed of two taluks—Anantapur and Kayanadurg—which were contiguous. Subsequently, a particular member—I do not wish to say who—did not find that amalgamation helpful. Therefore, the order of the President came to be amended. Subsequently it was amended by dropping Anantapur taluk and adding on Gooty without any kind of reference or any agitation. That is one thing. I was also told of other similar instances. I do not wish to get into those things, but suffice it to say that sometimes these powers are so used as to bring about delimitation of constituencies one way or the other not always based on principles. And I am sure such impressions may be in the minds of other members also. It is pre-

cisely for that reason that I say that the members of this Parliament or of other Legislatures must have a place there not by nomination of the Speaker who belongs to a particular party. I am perfectly aware that once a man is elected Speaker, he will be above party; the whole House is his. He will be the father in the family, and all that, on principles. But we do know as a matter of experience that he, nevertheless, must have his eye upon the principal support of people who have put him there.

**Mr. Deputy-Speaker:** Not for five years unless a no-confidence motion is tabled against him.

**Shri Raghobachari:** I am not suggesting—far be it from me to do so—that he feels nervous about his own position and, therefore, might not observe the proper attitude. That is not at all my suggestion. What I say is that after all, he happens to be a man who was chosen and put there at the instance of one party. And the more so, when there are contests and all that, the Speaker is chosen by the majority of votes. In a matter of this kind that nomination is to be handed over to the Speaker—I wonder why? Why not the Legislature itself elect the number of representatives required? What is the matter that is in the way of that? That is only democratic.

Then, as suggested by my friend, there must also be a provision that some of the members must certainly be drawn from the Opposition functioning. Without that it becomes practically a body constituted from one end to another where opportunities for expression of all sections of opinion will not be available. That is a point that must be carefully considered.

Now, Sir, as regards the number. I would suggest that two and four—the lower and the upper limits—may not be sufficient and I would submit it would be better that it is three and five or even five and seven. For after all, we have provided that there is no place for dissenting minutes. That is again another matter on which I am sorry that there is such a dismissal of the opinions of those people who have happened to differ. You have no right to say what you feel. We hear you, we dismiss you; that is what is being done. It may be that they may not vote but certainly they have a right to give their dissent in writing. That is one matter which might be considered.

Another matter, Sir, which I wish to suggest is this. I find in this Bill a clause which I find is unnecessary and



[Shri Raghabachari]

that is clause 6,—the procedure to be followed. Parliament might know that recently we passed a Bill which is now an Act, the Enquiry Commissions Bill. In this the procedure to be adopted and the powers to be exercised by any Commission appointed by this Parliament or the local Legislature are provided for. To my mind, it looks that the whole of this present clause is unnecessary, and possibly this was put in long before the other Bill was passed into an Act. That might be taken into consideration. Probably the *Exp.ana*tion might have to find a place somewhere.

Then, in the matter of the final report being final, the word is not there. Nor is there any provision that the decisions or the orders promulgated by the Commission should be submitted to this Parliament. I feel, Sir, that it is necessary that it should not become final until it has been submitted to this House. For, after all, we are appointing a Commission and the Commission must function within its limits and its recommendations must come before this House before they become final. This is a matter on which some thought has to be given.

Subsequent to these decisions, powers are given to the Election Commissioner to rectify those things calling them 'mistakes' or 'errors'. No doubt, in the case of 'error' and other things, the usual safeguarding language 'not of a substantial character' is there but in the case of the first, 'mistake' there is not that requirement. Under the cover of 'mistake' any order might be rectified. I suggest that a provision, that is, the words 'not of a substantial character' might also be added as a qualifying clause to mistake also.

Then there is one other suggestion I would like to submit and it is in the matter of associates. In this, surely efforts must be made that the Opposition parties have a voice in it. Otherwise it might lead to not very healthy final delimitations.

Shrimati Sucheta Kripalani (New Delhi): Sir, I generally support the Delimitation Commission Bill because it is a constitutional necessity. We cannot hold any general election after January 1953, on the basis of the delimitation of constituencies that we have now. Articles 81(3) and 170(4) provide that after every census we must readjust our constituencies. Therefore we have got to create an agency that will bring into effect this constitutional requirement. So nobody can object to the principle of this Bill. But

I also, like the previous speakers, have certain criticisms to offer regarding the provisions of the Bill.

My chief criticism is to clause 5 as mentioned by the previous speakers. I am surprised to see that in the Bill placed before us no consideration has been given to the fact that the Opposition parties should be associated with the work. Clause 5 says that only two to four persons should be associated and these would be nominated by the Speakers of the State Legislatures. It cannot be denied that the work of delimiting the constituencies is a very important work because the future elections will depend on this. On the proper delimitation of the constituencies will depend the right of the voters to send their real representatives to the House. As has been mentioned by Mr. Raghabachari and as is well known to everybody, powerful parties can influence in adjusting the boundaries according to their wishes. Not only powerful parties but even individuals have played a part in fixing them. During the last elections we heard a good deal of complaint all over the country. As a matter of fact, some of us felt that the majority party was able to define electoral districts in such a way that they got a higher representation than their voting strength allowed. Therefore, we who are in the Opposition are very keen that proper provision should be made when we are again delimiting the constituencies. Whatever deficiencies there were previously should be put right. I am supported in this in the opinion of Mr. Jalal who is an *ex*-Judge of the Punjab High Court. He has said:

"I know cases where the delimitation of constituencies has been made by those entrusted with the task in the interest of parties or that even of individuals."

Such strong language has been used by an *ex*-Judge. In view of that, how is it that the Government has not thought fit to make a provision to give representation to the Opposition parties? Therefore, I would suggest that instead of limiting the number to four, the least number should be five, which would give some kind of representation to the different Opposition parties in the State. Then, as regards their selection. Either they can be elected jointly by the members of the State Assembly and the members of the House of People belonging to the State by the method of single transferable vote or if this proposal is not acceptable to the Select Committee, I would suggest that they should be nominated not by the Speakers of the different Legis-

atures but by the Commission itself. You may very well ask why I suggest that the nomination should be made by the Commission itself. I do not mean any discourtesy to any of the Speakers, but situated as we are, with the political situation in this country as it is, we have to take great care to see that the people who are associated with the work of the Commission do not belong to one party. Speakers all over this country mostly belong to one party. All of them, perhaps except the Speaker of Pepsu, are Congressmen. I know that it is supposed that the Speaker is a non-party man. Unfortunately, in India we have not yet developed the convention to that extent that the Speakers always function in a non-party manner. In this country our Speakers have even gone to the extent of making proud declarations in the public that they belong to a political party. In the face of this attitude of the Speakers, I do not know how far we can expect to get representation on the Delimitation Commission if the nomination is left to the Speakers. I would also like to draw your attention to the interesting contrast between the attitude of our Speakers and the attitude of our very famous Speaker, late Shri Vittalbhai Patel. When he was elected Speaker during those days, when we were under the British and, when we were carrying on a struggle against them, when he was a member of the party that was carrying on this struggle, he said, 'I do not belong to any party.' Had that attitude prevailed, we could have said, "All right, let the Speakers nominate." I would therefore suggest that the Commission, being a non-party body, should have the power to nominate associate members.

Regarding the function of the associate members, they have no right to vote or to sign the report, I can quite understand that but they should be given a little more power; they should have the right to submit their views in writing and before a final decision is taken, due consideration should be given to the views thus expressed.

Then there is another matter which, I do not know, whether it is strictly within the range of this Bill. The Select Committee might also consider the question whether it is advisable for us to have multiple member constituencies. During the last election we found how very difficult it was to fight an election in a multiple member constituency.

**An Hon. Member:** Difficult? It is impossible.

**Shrimati Sucheta Kripalani:** Very difficult, if not impossible. It is all

right for a big party like the Congress which has got large resources at its disposal, being the ruling party. But for small parties or individuals it is an almost impossible task. But now that we are raising the limit from seven and a half lakhs to eight and a half lakhs, the task will become even more difficult. You know what is the condition of our roads in the rural areas—how inaccessible some of the rural parts are. Besides, our voters are mostly uneducated. And then, many of us have not got the resources to go and organise a campaign in such a vast area. Therefore, I would suggest that except in urban areas where you may have double member constituencies, everywhere else we should have single member constituencies.

**Mr. Deputy-Speaker:** Even for Scheduled Castes?

**Shrimati Sucheta Kripalani:** Yes. Let there be areas fixed for Scheduled Castes. After ten years we are going to remove these reservations. So, let them have it from now. If in some areas the Scheduled Castes alone contest, what does it matter?

**Mr. Deputy-Speaker:** I am not able to follow. If a particular constituency is reserved as a single-member constituency for the Scheduled Castes, then none other than a Scheduled Caste candidate can stand.

**Shrimati Sucheta Kripalani:** What does it matter? I have no objection to that. I understand the implication and having done so, I make the suggestion.

**Mr. Deputy-Speaker:** Will not the non-Scheduled Caste people be denied the right of representation?

**Shrimati Sucheta Kripalani:** We will only select these constituencies where there are a large number of Scheduled Caste people. What does it matter? At present, it is impossible to work. We know what a farce it is. If we have multiple-member constituencies as at present, very few people except those belonging to the Congress which is a well-organised body, will be able to fight an election properly.

**Mr. Deputy-Speaker:** Can the hon. Member say that in any particular constituency so far demarcated the Scheduled Castes form a majority?

**Shrimati Sucheta Kripalani:** That may not be so, but the other people are getting their chance in other constituencies. After all, to me there is no very great distinction. We are all Indians. Let us get the chance in the same way. After ten years, we want

[Shrimati Sycheta Kripalani]

to do away with these reservations. Let us start from now.

Then, I have nothing very much more to say except to endorse the view expressed by Shri Raghobachari that before the report is finalised and it takes the form of a law, an opportunity should be given to the House to express its opinion on the final findings.

In regard to clause 9, I want to point out that the wording here is: "After the Commission has ceased to function, any mistake in the order made by the Commission under subsection (1).....etc. etc." I accept the latter portion may stand as it is, but in the first portion the words "After the Commission has ceased to function, any mistake in the order....." are very wide. We should qualify that statement by saying "not of a substantial character" or some such phrase, which would go to limit the scope.

With these few words, I support the Bill. Whatever amendments I have got, I shall table after the Bill comes from the Select Committee. I do hope that the Select Committee will give very serious consideration to the views expressed in the House and to the opinions that have been received already.

**Shri Sinhasan Singh** (Gorakhpur Dist.—South): Sir, this Bill as it is will mean a recurring cost to the nation on account of the appointment of a decennial Commission. So, in my opinion, this cost is not commensurate with the benefit that will accrue from the Commission. The number of Members in the Parliament will remain as it is. So also in the States. Constituencies only may be adjusted here and there. For this purpose, we are called upon to spend Rs. two lakhs. I think that this can be avoided. Article 81 may be suitably amended. There may be an adjustment on the present occasion, but later on it should not be necessary to have this Commission every ten years. If we go on changing the Constitution, nobody will know in what constituency he will have to stand next time. Some way should be found to amend the Constitution and solve this difficulty.

As regards the composition of the Commission, I take exception to the provision "two members, each of whom shall be a person who is or has been a Judge of the Supreme Court or of a High Court....." The words "has been" shows that retired Judges would be eligible for appointment. This means that they can look for favours from the Government. I submit that the

judiciary should be above all temptations. The moment a Judge has any future expectation of a favour from the Government, I submit in all humility that his judgment is likely to be affected. Therefore, we should not have retired Judges. You have in this House the hon. Shri Chatterjee, a retired Judge. You have also the hon. the Law Minister, another retired Judge. Political life for service if they so choose after retirement should alone remain open not any favour from the Government of getting any re-employment. If at the time they were sitting as Judges they had any expectations, I am sure their judgments would probably not have been free from influence. That sort of fear lurks in my mind. This clause should therefore be amended and retired Judges should not be given the chance to serve in this Commission. Then if you have the word "is" the loss to the country would not be large. You may take one or two Judges from one place or two places and then we will not give them extra pay. But if retired Judges are taken, we will have to pay them. My point is, in both cases it is an unnecessary expenditure. The Commission is there and it is empowered under clause 9 to correct errors. Why can you not give power to the Election Commission itself? The Election Commission conducts the general elections throughout India, and as far as I know nobody has said a word against it so far. Therefore, whenever delimitation has to be effected, that Commission itself may be authorised to attend to this work. Why should we have a separate Commission?

Then a fear has been expressed from the Opposition side. They say that the nominations would comprise mostly of members of one party. So, they have suggested that the number may be increased to five or six. May I suggest that this clause may be amended in such a way that the Opposition members may only be nominated to the Commission? They seem to think that they are the only honest people. After all, what this gentleman is going to do? He will only be an attache to the Commission. He has no right of vote, or writing notes of dissent. He is only there to advise, and if his advice is not accepted then the Commission's verdict is the final verdict. Let all preferences be given to the Opposition members. None of my friends sitting on this side will, I believe, have any objection to it.

To sum up, I suggest that instead of amending the Constitution every ten years, we should devise a method of providing for the variation in the

population; secondly we should not have any retired men serving on the Commission.

**Shri Altekhar (North Satara):** Sir, I take up the last clause of the Bill, clause 9 first. The clause provides for the amendment of an order of the Commission after it has ceased to function. But it should be made clear that the mistake sought to be corrected should be of a type which will conform to section 152 of the Civil Procedure Code, that is, clerical mistakes or arising from any accidental slip or omission. If it be a mistake of that type then the Chief Election Commissioner should be in a position to correct it. But if it happens to be of a rather substantial nature, so that it would come under section 151 of the Civil Procedure Code, that is involving the inherent powers of a court, where in order to do justice the court can revise its own orders, if it be of that type, then the Chief Election Commissioner should not have the power to correct it, because he would thereby be assuming the full powers of the Election Commission. The two members, who were members of the judiciary will not be there and if such a mistake is to be revised, then the Chief Election Commissioner should not have the power to do that. If such a contingency arises, I would submit that the same Election Commission should be called and it should be asked to revise that particular mistake. It should not be left to the Chief Election Commissioner. If some of the members of the Election Commission be not in this world at that time, another one should be appointed of that calibre and status and the matter should be gone into by the Commission and finally decided. But a mistake of a substantial nature should not be corrected or a decision given or order passed by the Chief Election Commissioner. So much with regard to clause 9.

Then, in regard to nomination of the members of the House of Parliament, or of the Assemblies, I would like to suggest that this is a right of the Assembly and of this House. That right should be exercised by the House itself or by the Assembly. It should not be done by any member of the Commission and it should be competent for the Speaker to nominate the members—be it five or seven—and provision should be made so that members of the Opposition are represented. But the members should be nominated by the Speaker and that right should not go out of the House.

Then in regard to the constituencies, I would like to suggest that they should be so formed that the contiguous

areas should be in the same constituency. Means of communication as also facilities for candidates to go into that particular area should be the chief consideration. Administrative difficulties should not be the criterion. They should be subordinated to the difficulties that will arise in the case of candidates while carrying on the election campaign. So far as multi-member constituencies are concerned, they should, as far as possible, be in such areas where there is a density of population. Areas which are thinly populated should not form part of multi-member constituencies. Big cities and the surrounding rural areas and densely populated rural areas should be the particular places where there should be multi-member constituencies. In order to see that the Scheduled Castes and such others whose interests have to be taken into consideration, are represented, multi-member constituencies will be necessary and they cannot be given up at this stage. But while providing for such multi-member constituencies, thinly populated areas should, as far as possible, be avoided, because candidates would not be able to go over a very large area of long distances to carry on their election campaigns. So, thickly populated rural areas, big cities and surrounding areas should, as far as possible, be the places where multi-member constituencies are provided.

**Mr. Deputy-Speaker:** But if Scheduled Caste members are large in that sparsely populated area, are they to be given up?

**Shri Altekhar:** But in the same State it will be possible to find thickly populated areas for multi-member constituencies and Scheduled Caste interests can thereby be safeguarded.

**Mr. Deputy-Speaker:** The rule appears to be that wherever there is a concentration of members of the Scheduled Castes, they should be chosen in preference to other areas.

**Shri Altekhar:** If there is any area where there is a large number of Scheduled Caste people residing therein, that particular area should be reserved for the purpose of Scheduled Caste representation.....

**Mr. Deputy-Speaker:** But it may be sparsely populated.....

**Shri Altekhar:** If it is sparsely populated and if it is a large area where Scheduled Castes are residing, then that area should be reserved for the Scheduled Castes. There should be no difficulty in doing that.

[Shri Altekar]

As regards delimitation of constituencies, the population figures of 1951 should be the deciding factor and seats should be allocated and delimitation of constituencies for the House of the People done on that basis. That allocation should be retained as far as possible and there should not be any sort of competition between the States for seats on account of increase in population. Rather there should not be any premium on the increase of population and competition resulting therefrom.

**Mr. Deputy-Speaker:** Why should there be any readjustment at all now?

**Shri Altekar:** What I suggest is that the allocation which we make now should be stuck to as far as possible. Take for instance the case of Orissa. In Orissa there has only been a rise of six per cent. in the population during the preceding ten years. But there are States where the increase is as much as thirteen per cent. If some States are resorting to control of their population, they should not be subjected to any further hardship. That is my particular suggestion in this connection and I would like it to be considered by the Select Committee before they submit their report to this House.

**Shri Punnoose (Alleppey):** Sir, I wish to make a few observations on this Bill. From the point of view of principle it is very important that we should move cautiously with regard to this Bill, because we are dealing with the very foundations of our democracy. If we make a mistake here, then that mistake can only be regretted in the future; it cannot be corrected. So we have to be careful in dealing with it.

Secondly, we should take into consideration certain realities. It is a fact that all over India, of late, party politics has become very strong. There is not only healthy party competition but you know and the House is aware, I am sure, that there is a lot of unhealthy competition also. Recently we had the municipal elections in most parts of Southern India. I would ask the Members of the party in power whether they can show one constituency from which complaints have not come that the constituencies were distorted to send the Congress Party to power. These complaints have been voiced by all organised parties—not only the Communists, not only the Socialists, but every party has voiced that Government have intervened and that the municipal constituencies have been distorted.

**Shri S. V. Ramaswamy:** Question.

**Shri Punnoose:** Papers and public organs have protested against it. I come from Travancore-Cochin. There the municipal elections are not yet over. But I know of cases in which all sorts of odd arrangements have been made to facilitate Congress Members to come in. It is not my intention to find fault with the Congress now, but they must make provisions in the Bill in such a way that they infuse a certain amount of confidence in the public mind that things are moving correctly and that mistakes are guarded against.

Therefore I would suggest that the Bill may be more seriously considered by the Government than it has. I am surprised that the elective principle has been completely overlooked by the Government. In no place has the principle of election been accepted. I can understand the Delimitation Commission being appointed, and there are Judges and others on it. That is all right. But while going to the States, why ask the Speakers to nominate these members? It is not a question of the Speakers being partial or impartial. After all it does not involve any further expenditure, it does not involve any further time, and the State Assemblies can elect them on the basis of single transferable votes, with the result that all parties may have the occasion to send in their representatives. If the Congress is particular and anxious that they should be able to win the confidence of the public, they must accept the principle that the members should be elected by the Assemblies on the basis of single transferable vote and not nominated by the Speakers.

Then, I do not understand why these members should be associate members at all. I do not know whether there is any constitutional difficulty. If there is, I do not say that it should be overlooked. But if there is none, why is it that they should be made associate members only? Why not they be given the right to function as full-fledged members? Even granting that they are associate members, why not they be given the right to submit their dissenting reports? Why not they be encouraged to say whatever they have, to give it in black and white, so that this Parliament may have the occasion to study it.

With regard to clause 5 of the Bill in regard to associate members it is specified that the number should be not less than two and not more than four. I consider it is too small a number. Considering the large number of parties that have come into existence and also considering the big volume

of public opinion that is likely to develop over this. I believe it should be changed into not less than five and not more than ten.

Then it is provided that the Commission shall have the power to require any person to furnish any information. That is all right.

**Mr. Deputy-Speaker:** The hon. Member may continue his speech after Lunch.

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

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

[MR. DEPUTY-SPEAKER in the Chair]

**Shri Punnoose:** Sir, I was trying to make out that both from the point of view of principle as well as considering the political conditions that exist in India today we have to proceed carefully. The process and conditions have to be more liberalised from the point of view of democracy. Take sub-clause (2) of clause 6. "The Commission shall have power to require any person to furnish any information on such points and matters as in the opinion of the Commission may be useful etc." While supporting it I believe another provision has to be made. The Commission should have the duty to invite, receive and take note of opinion in the country. Public men and organisations should be invited to give opinion. It may be that all these opinions in the last analysis may not mean much but we are particular that this provision should be made, so that the masses of the people of this country might feel that they have been consulted and that meticulous care has been taken to give them all the facilities to vote and to have their say in the Government of this country. Another point I may add. Now the differences in size of population between one constituency and another is vast. Sometimes it is two and a half lakhs of people. Some constituencies are so big that they have more than 50 per cent. of the average size. We are of opinion that under no conditions this difference should be more than a lakh of people. It should not exceed that. Then, Sir, coming to clause 8, we are definitely of the opinion that Parliament is not in a position to give a blank cheque to the Commission. As provided for now when the findings of the Commission are published in the Gazette, they straightaway become law. We are definitely opposed to that course. The Commission shall place its findings and also the minutes of its sittings before this House and we shall consider them.

I do not mean that this House will have to change or make very many changes in the recommendations of the Commission but the point is that people in this country shall not feel that this Parliament, their sovereign body, gave a blank cheque to the Commission. I am surprised that the party which idolises adult franchise and the ballot should think of issuing a blank cheque to the Commission. Therefore, Sir, it is our opinion that the recommendations and findings of this Commission shall be placed before this House for discussion. Spending a few hours, at the most a day, on the Report is worth while and in our opinion essential.

Before closing let me say that we shall not rush through this Bill. We shall sit together and discuss it at length, not in a haphazard manner, not in any great hurry. We shall see that no mistake, no discrepancy creeps into this Bill. With these observations, hoping that the Select Committee will be able to consider these suggestions and those made by other hon. Members and hoping that the Committee will be able to improve upon the Bill I support it.

**श्री ऐस० ऐन० दास (दरभंगा मध्य) :**

उपाध्यक्ष महोदय, लोक सभा और राज्य की विधान सभा के मेम्बरों के चुनाव के लिये निर्वाचन क्षेत्र बनाने के लिये जो एक कमीशन बनने वाला है उस के बिल के सम्बन्ध में विचार करते हुए सब से ज़रूरी बात मैं समझता हूँ कि यह है कि निर्वाचन क्षेत्र बनाने का काम एक ऐसी संस्था को सौंपा जाये जिस पर किसी संस्था का या पार्लियामेंट का भी अधिकार न हो। बहुत से सदस्यों ने यह विचार प्रकट किया है कि इस कमीशन का काम सिर्फ यह हो कि वह निर्वाचन क्षेत्रों का विभाजन करे, और सारी चीजों को फिर इस सभा के सामने रखा जाये और सभा को इस बात का अधिकार हो कि उस में जो परिवर्तन करना चाहे वह कर दे। मैं समझता हूँ कि यह बात प्रजातंत्र के मूल सिद्धान्त के खिलाफ़ है। यह सही है कि हम जनता के चुने हुए प्रतिनिधि हैं इसलिये हम को इस बात का अधिकार है, लेकिन जहाँ तक मेरा ख्याल है निर्वाचन क्षेत्र बनाने के काम में किसी

[ श्री एच० एन० दास ]

राजनीतिक दृष्टिकोण से काम नहीं लेना चाहिये। मैं यह नहीं मानता कि संसद् के सदस्य जब इस बात का निर्णय करेंगे तो वह किसी पार्टी विशेष की भावना से प्रेरित हो कर करेंगे, लेकिन फिर भी इस बातका पूरा खतरा इस में रहता है कि जिस पार्टी का संसद् में बहुमत रहेगा वह पार्टी निर्वाचन क्षेत्र बनाने का निर्णय करने में बहुमत से प्रेरित हो सकती है। इसलिये सरकार ने यह बिल उपस्थित किया है कि एक कमीशन बनाया जाय जिस को इस के सम्बन्ध में अन्तिम अधिकार दिया जाय। सारी बातों की जानकारी हासिल करने के बाद, व्यक्ति और संस्थाओं के विचार सुनने के बाद जो निर्वाचन क्षेत्र बनाये जायें वह अन्तिम हों। उन को संसद् के सामने फिर पेश करने की जरूरत न हो।

इसके पीछे मेरा यह भी ह्याल है कि सारे प्रजातंत्र की बुनियाद इस बात पर है कि जनता को अपने प्रतिनिधि चुनने का ठीक ठीक मौका दिया जाय। पिछली संसद् में मैंने देखा था कि राष्ट्रपति को यह अधिकार दिया गया था कि वह अपनी आज्ञा जारी करके निर्वाचन क्षेत्रों का निर्माण करेंगे। साथ ही साथ सलाह देने वाली समितियां जगह जगह बनाई गयी थीं और इलेक्शन कमिश्नर (Election Commissioner) को यह अधिकार था कि उस के सम्बन्ध में वह सलाहकार कमेटी से राय क्रायम करके तब राष्ट्रपति के सामने अपने सुझावों की रखें। उस सम्बन्ध में जो दृश्य संसद् में देखने में आया था मैं समझता हूँ कि भविष्य के लिये हिन्दुस्तान के लिये यह अच्छा नहीं होगा कि संसद् में उन निर्णयों पर फिर विचार किया जाय जो कमीशन अपनी सारी जांच पड़ताल के बाद तय करेगी। मेरा ह्याल है कि ऐसा करने से प्रजातंत्र की जो भावना है उस को

जरूर चोट पहुंचती है। निर्वाचन क्षेत्र बनाने का काम एक तरह से न्याय का काम है। जनता की सुविधा, भौगोलिक सुविधा और शासन की सुविधा को देखते हुए यदि अन्तिम निर्णय करने का अधिकार संसद् के सदस्यों को रहेगा तो उस में पार्टी का असर पड़ सकता है। न मालूम क्यों इस बिल के सम्बन्ध में विचार करते हुए इस सभा में विरोधी पक्ष के जो लोग हैं वह इस बात के लिये जोर दे रहे हैं कि कमीशन का जो अपना ड्राफ्ट (Draft) हो वह संसद् के सामने फिर से विचारार्थ रखा जाये। मैं इस का पूरा विरोध करता हूँ। मैं समझता हूँ कि इस का अन्तिम निर्णय करने का अधिकार उस कमीशन को ही रहना चाहिये जिस को हम इस बिल के जरिये से बनाना चाहते हैं। इस सम्बन्ध में सरकार की ओर से हमारे माननीय मंत्री ने जो इस बिल को पेश किया है मैं समझता हूँ कि सब से बुनियादी बात इस में यही है कि संसद् के हाथ में सिर्फ कानून के जरिये एक संस्था को बना देने का ही काम रहे। उस संस्था के काम में दस्तन्दाबी करने का या उस के निर्णयों पर फिर से विचार करने का अधिकार संसद् को नहीं होना चाहिये। मैं इस बिल का समर्थन करता हूँ।

दूसरा मेरा सुझाव यह है कि सिलेक्ट कमेटी इस को ध्यान में रखे कि सारे हिन्दुस्तान के लिये एक ही कमीशन बनाना कुछ उचित या अच्छा नहीं है। यह हिन्दुस्तान हमारा इतना बड़ा देश है, इस में विभिन्न तरह की परिस्थितियां हैं। यहां भौगोलिक परिस्थितियां भी विचित्र हैं और प्राकृतिक परिस्थितियां भी विचित्र हैं। तो अच्छा तो वह होता कि सारे हिन्दुस्तान को कई हिस्सों में बांट दिया जाता और हर एक हिस्से के लिये अलग अलग कमीशन होता और

उस में जो बौद्ध इन्फ्रेशन कमिश्नर ह वह हर कमीशन में रहने ताकि विभिन्न भागों में जाते हुए हर जगह एक ही सिद्धान्त के मुताबिक एक ही तरीके से यूनीफार्मिटी (Uniformity) लाई जा सकती। इस लिये मेरा यह सुझाव है कि एक ही कमीशन बिठाने के बजाय हिन्दुस्तान में कई कमीशन होने चाहिये क्योंकि जनता के विचारों को सुनने का, संस्थाओं के विचारों को सुनने का और व्यक्तियों के विचारों को सुनने का तथा विभिन्न भागों में जा कर वहाँ की भौगोलिक तथा प्राकृतिक परिस्थिति को देखने का मौका एक ही कमीशन को पूरे तौर पर नहीं मिल सकता। इसलिये मेरा ख्याल है कि इस के लिये रीजिनल कमीशनों (Regional Commissions) का निर्माण होना चाहिये।

तीसरी बात मैं यह कहना चाहता है कि यद्यपि इस बिल में इस कमीशन के अधिकार का क्लॉज ४ में वर्णन किया गया है किन्तु उस में जम्मू और काश्मीर के सम्बन्ध में उस को कोई अधिकार नहीं दिया जा रहा है। मैं समझता हूँ कि जब जम्मू और काश्मीर को संसद के लिये पांच प्रतिनिधि भेजने का अधिकार दिया गया है और जम्मू और काश्मीर हमारे हिन्दुस्तान में शामिल है, यह सही है कि वह सिर्फ़ तीन बातों में ही हमारे साथ शामिल है, फिर भी जब जम्मू और काश्मीर को हमारी संसद में प्रतिनिधि भेजने का अधिकार है तो जनता के चुने हुए प्रतिनिधि संसद में आये तो अच्छा है। अभी वहाँ की विधान सभा की राय से जो लोग नामजद किये जाते हैं हमारे राष्ट्रपति उन को यहाँ नामजद कर देते हैं और वह यहाँ आ जाते हैं। मैं समझता हूँ कि अब समय आ गया है जब कि काश्मीर के जो प्रतिनिधि हैं उन को चुनने का अधिकार वहाँ की जनता को मिलना चाहिये और

जिस तरह से निर्वाचन क्षेत्र बनाने का अधिकार सारे देश के लिये इस कमीशन को दिया जा रहा है उसी तरह से काश्मीर के जो पांच प्रतिनिधि चुने जाते हैं उन के निर्वाचन क्षेत्र के बनाने का हक भी इस कमीशन को मिलना चाहिये।

मेरा एक सुझाव यह है कि जब यह कमीशन अपना काम पूरा कर चुके और किसी निर्णय पर पहुंच जाये तो वह अपने सारे प्रस्ताव को गजट में प्रकाशित करे और देश के लोगों को, संस्थाओं को, पार्टियों को मोका दिया जाय कि उस के सम्बन्ध में उन के क्या ख्याल हैं यह कमीशन को वह एक निश्चित अवधि के अन्दर, एक निश्चित तारीख के अन्दर भेज सकें। उन सब सुझावों पर वह कमीशन फिर से विचार करे और तब अन्तिम निर्णय करके अपना अन्तिम फ़ंसला दे कि हिन्दुस्तान में चुनाव के लिये ये निर्वाचन क्षेत्र कायम हो गये हैं। इस तरह हर संस्था को मौका मिलेगा कि जो ड्राफ़्ट कमीशन तैयार करेगा उस में क्या गलतियाँ हैं वह बतला सके, क्योंकि जिस स्थान पर, जिस क्षेत्र में व्यक्ति रहते हैं उस की जानकारी जितनी उन को होती है उतनी कमीशन को नहीं रह सकती। इसलिये ऐसा मौका संस्थाओं को, लोगों को और पार्टियों को मिलना चाहिये कि कमीशन का जो ड्राफ़्ट हो उस पर वह अपने सुझाव दे सकें और कमीशन सारी बातों पर फिर जांच करके तब अपने अन्तिम निर्णय पर पहुंचे।

एक बात इस बिल में यह कही गई है कि जब निर्वाचन क्षेत्रों का निर्माण किया जाय तो भौगोलिक स्थिति का ख्याल रखा जाय और प्राकृतिक स्थिति का भी ख्याल रखा जाये। मेरा ख्याल है कि उस के साथ साथ एक बात यह भी जरूरी है कि ऐडमिनिस्ट्रेशन (Administration), शासन की



[श्री एस० एन० दास]

सुविधा का भी ख्याल रखा जाये। केवल भौगोलिक और प्राकृतिक स्थिति का विचार करते हुए एक ऐसा निर्वाचन क्षेत्र बन सकता है कि जो व्यावहारिक दृष्टि से अच्छा न हो, काम करने की दृष्टि से और उम्मीदवारों की दृष्टि से और सरकार की दृष्टि से भी अच्छा न हो। इसलिये जहा तक ऐडमिनिस्ट्रेटिव कंवोनियन्स (administrative convenience) का सवाल है, शासन की सुविधा का सवाल है, उस का भी विचार किया जाना चाहिये। इस तरह भौगोलिक स्थिति प्राकृतिक स्थिति और शासन सम्बन्धी स्थिति का भी पूरा ख्याल करके यह कमीशन अपना निर्णय करे। हमारे अनुभव में यह आया है कि भौगोलिक दृष्टि से जो निर्वाचन क्षेत्र चुने जाते हैं वह शासन की दृष्टि से सुविधाजनक नहीं होते हैं। न उन में सरकार सुविधाजनक काम कर सकती है और न उम्मीदवार ही ठीक से काम कर सकते हैं। इसलिये इस बात का पूरा ख्याल रखना चाहिये।

एक बात जिस के विषय में मैं सुझाव देना चाहता हूँ और जिस के बारे में दूसरे सदस्यों ने भी चिन्तन किया है वह यह है कि इस आयोग को सहायता देने के लिये लोक सभा की तरफ से और विधान सभा की तरफ से जो सलाहकार चुने जायेंगे उन के लिये यह व्यवस्था है कि विधान सभा के जो अध्यक्ष होंगे वह उन का चुनाव करेंगे। मेरा ख्याल है कि यह उचित नहीं है। जो सलाहकार संसद् की तरफ से दिये जायें उन का चुनाव यहां के जो अध्यक्ष हैं वह करें और जो सलाहकार विधान सभा की तरफ से दिये जायें उन का चुनाव करने का अधिकार वहां के अध्यक्ष को रहना चाहिये।

यही बातें थीं जिन का मैं चिन्तन करना चाहता था। अन्त में मैं इस बात पर फिर

जोर देना चाहता हूँ वह कि जैसा कि कुछ सदस्य चाहते हैं कि निर्वाचन क्षेत्र के निर्माण के सम्बन्ध में जो अंतिम विचार इल्लुशन कमीशन करे वह संसद् के सामने आवें यह नहीं होना चाहिये। मैं चाहता हूँ कि इस का निर्णय करने के लिये एक स्वतन्त्र संस्था कायम हो जाय और संसद् उस में अपना कोई हाथ न रखे।

पंडित अलगू राय शास्त्री (जिला आजमगढ़ पूर्व व जिला बलिया—पश्चिम): उपाध्यक्ष महोदय, यह निर्वाचन क्षेत्र निर्माण आयोगन विधेयक जो उपस्थित हुआ है, मैं उस के इस रूप का समर्थक हूँ। यह दूसरी बात है कि जो संख्या ऐसोसियेट सदस्यों की कमीशन के साथ रक्खी गयी है, उस में कुछ वृद्धि की जा सकती है कुछ थोड़ी संख्या और बढ़ाई जा सकती है। इतनी बात तो मैं सुझा सकता हूँ किन्तु सामान्यतः मैं इस का समर्थक हूँ, पूरी तौर पर इसकी आवश्यकता इसी लिये पड़ी कि हमारे संविधान में यह बतलाया गया है कि जब जनसंख्या जांच ली जाय और यह मालूम हो जाय कि वह बढ़ गयी है, तो इस की आवश्यकता है कि फिर से निर्वाचन क्षेत्रों का निर्माण हो। इस अनिवार्य कारण से यह बात सामने आयी है और बहुत सोच समझ कर इस विधेयक का रूप तैयार किया गया है। इस दृष्टि से मैं इस पर कुछ बोलने की आवश्यकता भी नहीं समझता था, परन्तु अभी श्रीमती सुचेता कृपलानी ने जिस प्रकार इस बात पर आक्षेप किया कि स्पीकर्स (speakers) को यह अधिकार नहीं होना चाहिये कि वह सदस्यों को मनोनीत करें और उस के लिये जो तर्क उन्होंने दिया, उस से मुझे क्लेश हुआ और मैं ने समझा कि उस के प्रतिवाद के रूपमें मुझे कुछ कहना ही चाहिये

स्पीकर चाहे वह किसी भी विधान सभा का हो या यहां पर हमारे इस संसद का हो, यह स्पष्ट है कि उस का चुनाव होना तो सवसम्मति से चाहिये, लेकिन अगर विरोधी दल के कुछ आदमी केवल विरोध की दृष्टि से ही विरोध करें और स्पीकर बहुमत से चुन लिया जाय, तो इस लम्बे पांच साल के जीवन में जो इस संसद की आयु है, उस में सदा स्पीकर को संदेह की दृष्टि से देखा जाये कि वह एक पार्टी का व्यक्ति है, मैं समझता हूं कि यह दृष्टिकोण अगर हम अपनायेंगे तो वह हमारे सारे वैधानिक जीवन को संकटमय, निराशाजनक और आपदाग्रस्त बना देता है। श्रीमती सुचेता इस समय यहां पर नहीं हैं, वह और मैं उत्तरप्रदेशीय विधान सभा में एक साथ सदस्य थे और उस समय विधान सभा के माननीय पुरुषोत्तमदास टंडन अध्यक्ष थे। उन्होंने स्पीकर रहते हुए कभी कांग्रेस दल से अपना सम्बन्ध नहीं तोड़ा था। उन्होंने भवन में उच्च स्वर से कहा था कि मैं अपने दल का सदस्य बना रहूंगा। यहां जो अंग्रेजी तरीके का जिक्र किया गया कि स्पीकर को दल का सदस्य नहीं होना चाहिये, कितने दूसरे राज्य ऐसे हैं जहां पर स्पीकर दल का सदस्य होता है, मैं उसी परिपाटी को मानना चाहता हूं और उस अंग्रेजी लकीर का फकीर मैं नहीं हूं। तो जो लोग केवल अंग्रेजी लकीर के ही फकीर हैं, उन के सामने यह आदर्श हो सकता है, किन्तु मेरी समझ में तो स्पीकर किसी दल का सदस्य रहते हुए भी तटस्थ रह सकता है, न्याय कर सकता है और यह मंच जिस प्रकार काठ का बना हुआ है और वह किसी प्रकार का पक्ष पात नहीं कर सकता, उसी प्रकार स्पीकर दल का सदस्य रहते हुए भी अपक्षपाती रह कर अपने कर्तव्य का पालन कर सकता है और इस का सुन्दर परिचय माननीय बाबू पुरुषोत्तमदास टंडन ने उत्तर प्रदेश

की विधान सभा का अध्यक्ष रह कर दिया है। उन्होंने कहा था कि यद्यपि मैं दल का सदस्य हूं, किन्तु विरोधी दल का एक व्यक्ति अगर उठ कर कह दे कि मैं ने पक्षपात से काम लिया है, तो मैं बहुमत वाले दल की शक्ति पर स्पीकर नहीं बना रहूंगा और मैं अपने अध्यक्ष के पद को छोड़ दूंगा और उन्होंने जितने समय तक अध्यक्ष का काम किया, विरोधी दल के एक व्यक्ति ने भी किसी एक अवसर पर यह नहीं कहा कि उन्होंने पक्षपात से काम किया। स्पीकर का इस भवन में जो महत्व है उस महत्व को सामने रखते हुए इस प्रकार की बात कहना कि उन के द्वारा सदस्यों को चुनने में कुछ पक्षपात की सम्भावना होगी, विशेषकर जब श्री बिठ्ठल भाई पटेल के बाद लोगों ने इस तरह की घोषणा नहीं की कि हम दल के सदस्य नहीं रह जायेंगे। इस कारण हम आज स्पीकर के हाथ से यह अधिकार निकाल कर कमीशन को देने के पक्ष में हैं, कमीशन के प्रति जो अटट विश्वास इस समय यहां दिखाई पड़ता है, मैं अपने भाइयों से पूछना चाहता हूं कि वह विश्वास कहा चला गया था जब उस के द्वारा देश में चुनाव कराये गये थे? तब तो शोर मचाते थे कि चुनाव में बक्सा टूटा, यह टूटा वह टूटा और कमीशन पर विरोधी दल वालों द्वारा तरह तरह के आक्षेप किये गये थे कि उस ने पक्षपात से काम लिया। विरोधी दल वालों का यह ख्याल कि वह बिल्कुल न्यायसंगत सारे काम करते हैं और बहुमत वाला दल जिस के हाथ में शासन की बाग डोर होती है उस के आदमी पक्षपात करते हैं, इस प्रकार की भावनाओं को ले कर जो बातें कही जाती हैं उस से कटुता भी पैदा होती है और काम भी नहीं बनता है। विश्वास से ही विश्वास पैदा होता है। स्पीकर से ज्यादा उपयोगी व्यक्ति कौन होगा कि जो सदस्यों की उतनी अच्छी तरह से जानता

[पंडित अलखू राय शास्त्री]

हो, वह अच्छी तरह समझ सकता है कि कौन सदस्य उस कार्य के लिये उपयुक्त होगा। सपीकर का सदस्यों के साथ दैनिक सम्पर्क रहता है, लेकिन कमीशन को जिस के लिये हमारे उधर के कुछ भाइयों ने सिफारिश की है, उस को क्या पता है कि विधान सभाओं में काम करने वाले कौन लोग हैं और की उस काम के लिये उपयुक्त हो सकते हैं इसलिये मेरी समझ में सपीकर के द्वारा निर्वाचन की जो बात है, उस में कोई दोष ही नहीं है, अपितु वह बिल्कुल न्यायसंगत है। अब आप यह भी कह सकते हैं कि यहां अनुपात से चुनाव करा दें तो वैसा करके तो यहां पर एक अखाड़ा स्थापित कर देना है। अगर यह बहुमत दल जो कि शासन चला रहा है और जिस का मंत्रिमंडल है, विरोधी पक्ष वाले अगर उस का फ्रंसला ले कर कमीशन के सामने बहस करना चाहते हैं और कमीशन में अपनी संख्या के अनुपात से बैठना चाहते हैं, तब तो वह न्यायालय न रह कर अखाड़ा बन जाता है। इस तरह भला कैसे काम चल सकता है। कल को आप सुप्रीम कोर्ट के फ्रंसले को ले कर कमीशन के सामने यह निश्चित करना चाहेंगे कि यह जो सजा दी गई है, यह तो बिल्कुल दलगत भावना और पक्षपात से दी गई है और उस के बारे में अन्तिम फ्रंसला यहां होना चाहिये, हम चुने हुए प्रतिनिधि हैं, तो मैं उन को बतलाना चाहता हूँ कि अभी मेरे मित्र दास जी ने जो कहा, वह बिल्कुल ठीक है, बहुमत दल की जो गवर्नमेंट है वह विहप (whips) के जरिये आप के कमीशन के सारे फंसलों को मात कर सकती है। कमीशन के सामने बैठकर निर्वाचन क्षेत्रों के पुनर्निर्माण में यदि आप संख्या के अनुपात के भरोसे काम लेना चाहते हैं, तो आप बहुमत दल के हाथ में वह अस्त्र देने जा रहे हैं जो वह स्वेच्छा से अपने हाथ से फेंकना चाहता है।

बहुमत दल चाहता है कि भली प्रकार काम हो। हम नहीं चाहते कि चूँकि हमारा बहुमत है, इसलिये हम अपने बहुमत के बल पर निर्वाचन क्षेत्र का निर्माण ऐसा करा लें जो हम बहुमत दल वालों के लिये उपयोगी हो।

[MR. SPEAKER in the Chair]

अभी एक जज साहब ने उस की तरफ इशारा किया कि ऐसा होना सम्भव है, मेरी समझ में उन्होंने कोई नयी चीज नहीं बतलाई। मनुष्य की स्वार्थ बुद्धि कोई नयी बात नहीं है और उन जज साहब ने कोई बहुत भारी बात नहीं कही। इस संसार में मनुष्य स्वार्थी जीव है और वह सदा अपने व्यक्तिगत स्वार्थों को देखता है। यह बात बहुत ही भाग्य और संतोष की बात है कि बहुमत दल अपनी स्वेच्छा से अपने अधिकारों को समर्पित करता है और उस के सामने केवल राष्ट्रहित है, वर्गहित और दलहित उस के सामने नहीं है। शासक दल के सामने, जो बहुमत में है, राष्ट्रहित और सर्वहित है और यही कारण है कि यह विधेयक जो उस के द्वारा सदन के सामने लाया गया है, वह न्याय पर अबलंबित है और सर्वथा मान्य है।

एक सुझाव यह भी दिया गया कि यह जो डबल मेम्बर कांस्टीटुएन्सीज (Double Member Constituencies) हैं, वह बहुत बड़ी हो जाती हैं और गरीब आदमी उन में काम नहीं कर सकते। यह शब्द और यह वाक्य इस बात को मान कर कहते हैं कि हम एक स्वतंत्र नागरिक हैं और एक स्वतंत्र व्यक्ति के रूप में खड़े हो जायेंगे। लेकिन उन को मालूम होना चाहिये कि चुनाव में स्वतंत्र व्यक्तियों के लिये कोई स्थान नहीं है। चुनाव के संसार में मनुष्य एक सामाजिक जन्तु है, यह ग्रुप (group) में काम कर सकता है, वह समाज में काम करता है। यह

दुर्भाग्यवश हमारा ही हतभाग देश है जहाँ पर व्यक्ति अपने बल पर खड़े हो जाते हैं, किन्तु दूसरे मुल्कों में आप स्वतंत्र लोगों को चुने जाते कम देखते हैं। यहाँ हमारे देश में तो पुरानी परिपाटियों के कारणवश किन्हीं किन्हीं व्यक्ति विशेष का कुछ महत्व होता होगा, लेकिन यह जो चुनाव होते हैं, उन में तो दलों द्वारा चुनाव लड़ा जाता है। अलग अलग दलों के प्रतिनिधि खड़े होते हैं, और उन दलों की अपनी कुछ नीतियाँ और घोषणायें होती हैं, उन घोषणाओं को ले कर उन दलों के प्रतिनिधि जनता के सामने जाते हैं।

3 P.M.

ऐसे दलों के लिये कोई निर्वाचन क्षेत्र वगैरह न हो। जहाँ जितना ही छोटा निर्वाचन क्षेत्र होगा उतने ही छोटे स्वार्थों की अपील होगी। हमारा देश एक ऐसा हतभाग्य देश है जहाँ पर जातिपात, बिरादरी, न जाने क्या क्या चीजें हैं, हुक्का पानी की बात है, हुक्का पानी हमारा तुम्हारा एक और तुम उन को बोट दोगे ? नाई, धोबी, दर्जी, गड़रिया, अहिर, कन्हार, मुराई, कूर्मी पारसी, लोध, चमार, के नाम पर सारे काम हमारे यहाँ हुआ करते हैं। जिस मुल्क में इस प्रकार के सिद्धांत हों, जिस में इस प्रकार के आर्थिक हित हों, न कोई सामाजिक हित हो, न कोई राजनैतिक हित हो, जहाँ व्यक्तिगत हित हो, जहाँ जाति हित हो, उस देश में आप सीमित रखना चाहते हैं निर्वाचन क्षेत्र। इस से बड़ी दुर्भाग्य की बात कोई नहीं हो सकती। जितना बड़ा क्षेत्र होगा, उतनी बड़ी अपील काम कर सकती है कि हम यह करने जा रहे हैं वह करने जा रहे हैं। हमारे यहाँ लोग कहते हैं कि "हम तुम्हारे बेटा का डिप्टी बनाय देव", हमारी पूर्वी कलो क्वियल (colloquial) भाषा

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में कैसी सुन्दर अपील है। "हम का बोट देहौ तो हम तुम्हारे बेटा का डिप्टी बनवाउव"। यह अपील है। म्युनिसिपैलिटी में वही प्रतिनिधि जाते हैं जो लालटेन अपने बोटों के यहाँ लगवा दें। नहर बनवाने का वादा करें, करे या न करे लेकिन चुने जाने के लिये वादा यह होना चाहिये। अगर नन्हें नन्हें निर्वाचन क्षेत्र होंगे तो यह होगा कि अगर कहीं जाटों का बहुमत है तो जाट खड़ा किया जाय, अगर खत्रियों का निर्वाचन क्षेत्र में बहुमत है तो खत्री खड़ा किया जाय और अगर ऐसा न किया जाय तो गड़बड़ी मचती है, आखिर कहां से जाट लावें, कहां से खत्री लावें। कहा जाता है कि इस देश में किसी निर्वाचन क्षेत्र में गरीब आदमी नहीं जीत सकेगा। न जीत सकेगा न जीते। गरीब आदमी के जीतने का क्या सवाल है, जीतना चाहिये सिद्धांत को, घोषणा पत्र को। हम ऐसे आदर्श को ले कर खड़े हों। जब यह भावना है तो मैं इस बात का पक्षपाती हूँ कि अगर शेड्यूलड कास्ट (Scheduled caste) की बात सोच कर के डबल मेम्बर कान्स्टिट्यूएन्सी बनाने की प्रथा रखी गई है तो वह भी नाकाफ़ी है। यह तो डबल मेम्बर कान्स्टिट्यूएन्सी जैसी होनी ही चाहिये। निर्वाचन क्षेत्र . . . .

एक माननीय सदस्य : सारे देश की हो।

पंडित अलगू राय शास्त्री : सब तो नहीं मगर आप तो मौजूद हैं। मैं ने जाट शब्द का प्रयोग किया था, उस को वापस लेता हूँ। मेरे कहने का मतलब यह है कि सारे भारतवर्ष का एक निर्वाचन क्षेत्र न हो, लेकिन निर्वाचन क्षेत्रों को कूपमंडुकता न प्रदान की जाय। उतना बड़ा निर्वाचन क्षेत्र नहीं जितना बड़ा राष्ट्रपति का होता है, उस को तो सारा भारतवर्ष चुनता है, लेकिन हमें साधारण व्यक्तियों के चुनाव में भी कूपमंडुक न बना कर, मैं चाहता हूँ कि

[पंडित बलगू राय शास्त्री]

ब्रह्म सागर के समान न सही, लेकिन एक लम्बी विस्तृत झील जैसा निर्वाचन क्षेत्र तो हो जिस से हम उस में उछल कूद तो सकें, तैर तो सकें। ऐसा न हो कि इधर जायें तो इधर टकरा जायें और उधर जायें तो उधर टकरा जायें। ऐसा न हो डुबकी लगाना चाहें तो तह से टकरा जायें। हमें झील में जमना होगा। जो निर्वाचन क्षेत्र पहले से रखे गये हैं उन में पहले से ही काफ़ी उबलापन है। मैं सदा से इस बात का विरोधी रहा हूँ कि निर्वाचन क्षेत्र को एक नन्हें सा क्षेत्र बनाया जाय। लोग कहते हैं कि प्रतिनिधित्व क्या होना चाहिये जिस में हर एक प्रतिनिधि थोड़े से आदमियों के सारे स्वार्थों को आसानी से कह सके। आदमियों के स्वार्थ क्या होते हैं? यहां पर क्या डिस्कस (discuss) होता है? कम्युनिटी प्रोजेक्ट्स (community projects) हैं, औद्योगिक विकास है, उसमें व्यक्तिगत स्वार्थ कहां से आता है? तो यह आवश्यक नहीं है कि हम निर्वाचन क्षेत्र को छोटा करें। इसलिये मैं कहना चाहता हूँ कि प्रबर समिति इस बात को बड़ी सावधानी से देखे कि ऐसे नन्हें नन्हें स्वार्थों की अपील वहां न होने पाये। निर्वाचन क्षेत्र जितना विषद हो सके उतना विषद होना चाहिये, और भी विषद किये जा सकते हों तो भी आपत्ति न हो।

एक बात मैं और कहना चाहता हूँ कि मैं नहीं चाहता कि कमीशन का विषय डिबेट में लाया जाय। इस को डिबेट में लाने की मांग करना विरोधी दल के लिये तो निश्चित रूप से कहा जा सकता है कि उन की राजनैतिक अनुभवहीनता का परिणाम हो सकता है क्योंकि वह अपने हक में दिये गये फँसेले को यहां बहुमत से हटवाने के लिये

उन को विवक्षित करते हैं। तो बहरहाल आदमी को आत्महत्या करने का अधिकार तो है मगर जब तक पुलिस की नोटिस में वह आदमी है पुलिस उस को ऐसा नहीं करने देगी। तो मैं तो चेतावनी देने वाला आदमी हूँ लाइट हाउस (light house) की तरह कि इधर कहीं तुम्हारा जहाज टकरा न जाय। मैं कहे दे रहा हूँ, फिर कोई यह न कहे कि खबर नहीं दी। कमीशन में अगर तीन आदमियों की तादाद हम मुक़रर करते हैं तो इस में भला तो विरोधी दल का ही है। सारी योजना बना कर अपने अधिकार को न्यायाधीशों के अधिकार में देना चाहते हैं।

इस बात से मैं भी सहमत हूँ कि हमारे जो न्यायाधीश रिटायर हो चुके हैं उन को मुक्त आदमी मानना चाहिये। मुक्त आदमी का स्थान स्तुति स्थल पर है। उनको फिर से सर्विसेज में लाने की बात कहना ठीक नहीं है। मैं यह नहीं कहता कि वह बिक सकते हैं या भूल कर सकते हैं। मगर विश्वास एक ऐसी बड़ी चीज है कि अगर वह बिग जाय तो जो चमत्कार है, जो सौंदर्य है वह नष्ट हो जाता है। हम को जनता का विश्वास लेने के लिये यह समझ लेना चाहिये कि जिन की एक कलम में एक व्यक्ति को फांसी देने का अधिकार है, जो अधिकार, जैसा कि कुरान मजीद में लिखा हुआ है कि जिन्दगी और मौत की कुंजी अल्ला मियां ने अपने हाथ में रखी है, मगर इस ज़मीन के इन्सान ने इन्सान के हाथ में उस जिन्दगी और मौत की कुंजी दी, और वह जज के हाथ में दी। तब जिस जज के सामने हम श्रद्धा से सिर झुकाते हैं अगर उस के सम्बन्ध में बेईमानी की अथवा सन्देह की गुंजाइश हो कि इस में उस के लिये प्रलोभन है तो जो उस ने जीवन भर

नहीं किया उस पर वही लांछन लगाया जाना है। मैं कहूंगा कि जिस ने सदा न्याय का साथ दिया है, जिन के विश्वास पर दुनिया निर्भर करती है जबता के विश्वास पर शासन निर्भर करता है, वही जनता जिस व्यक्ति पर विश्वास करती रही है उस पर कोई लांछन नहीं आना चाहिये। तो जजों के सम्बन्ध में यह जरूर कहना था कि रिटायर्ड जजों का नाम आज कल आम तौर पर लिया जाने लगा है। इस देश की आबादी बढ़ गई, इस देश में शिक्षा बढ़ी, आज हमारे यहां आदमी की कमी नहीं है। बहुत से लोग बेकार हैं, उन के जीवन की सारी कामनायें नष्ट हो जाती हैं। पुराने आदमी बड़े काम के हैं, मैं मानता हूँ, मगर पुराने अनुभवी लोगों की अपना जीवन सुख से बिताने देने के लिये, उन के चरित्र पर लांछन न लगने देने के लिये उन को दुबारा काम में लगाना अनावश्यक है।

इतना कहने के बाद मैं यह समझता हूँ कि यह जो विधेयक है उस को इस दृष्टि से इसी रूप में स्वीकार कर लेना चाहिये। लेकिन अगर एसोशियेटेड मेम्बरस (Associate Members) की संख्या कुछ बढ़ाई जा सकती हो तो बहुत ठीक है। मेम्बर एसोशिएट रहना चाहिये, उन को पूरे मतदान का अधिकार नहीं होना चाहिये। वह केवल जजों की वाकफ़ियत के लिये अपनी राय गोशगुजार कर दें। मुक़ाम इसलिये बतायें कि उन की राय नकशे के आधार पर, जानकारी के आधार पर ठीक होगी। लेकिन उन को वोट देने का अधिकार नहीं देना चाहिये। जो कागज़ाती गवाही और बहस हो सकती है उस के निकट रह कर और ज्यादा जानकारी कराने का काम वह कर सकते हैं। लेकिन जजों के खयाल को अनुचित तरीके से प्रभावित करने और वोट देने का अधिकार उन को नहीं होना चाहिये।

अंत में मैं यह कहना चाहता हूँ कि जो निर्णय हो वह तो कमीशन का हो, मगर हमारा सारा काम, सारी हुकूमत प्रेज़िडेंट (President) के नाम में चलती है। जो कमीशन का आर्डर हो वह प्रेज़िडेंशियल आर्डर (Presidential Order) के नाम से चालू होना चाहिये। कमीशन का फ़ैसला हो, कमीशन जानकारी हासिल करता है, रिक्-मेन्डेशन (recommendation) करता है इसलिये उस की फ़ाइन्डिंग (finding) हो, मगर "इन दिनेम आफ़ दि प्रेज़िडेंट" (In the name of the President)। होना यह चाहिये कि जो राष्ट्रपति हमारे देश का प्रतीक है, हमारे सारे शासन की जो प्रतिमा है, देवता के समान जो मूर्ति है उस की तरफ़ से यह चीज़ हमारे सामने आनी चाहिये ताकि सब लोग श्रद्धा के साथ नत मस्तक हो कर उसको स्वीकार करें और अपने निर्वाचन क्षेत्र से जनता का प्रतिनिधि होने का सौभाग्य प्राप्त करने की चेष्टा करें।

इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूँ।

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):**  
I beg to move:

"That the question be now put."

**Shri T. N. Singh:** On a point of order, Sir.....

**Mr. Speaker:** First, let me dispose of this motion, and then we shall hear the point of order.

The question is:

"That the question be now put."

The motion was adopted.

**Mr. Speaker:** The hon. Member may now state his point of order.

**Shri T. N. Singh:** The question is, Sir, that according to the Representation of the People Act, 1950, certain number of seats have been fixed for representation of each State in the

[Shri T. N. Singh]

House of the People. That Act stands. No modification has been made in that Act. Now, this Bill also does not say that notwithstanding anything in that Act, this will apply; nor does it in any way seek to change the provisions of that Act. At the same time, the Statement of Objects and Reasons does not specifically say that. Yet in clause 7 it is stated that the Commission appointed under this Bill shall re-adjust the total number of seats to be allotted to the various States in the House of the People. Now here this Bill goes in conflict with that Act, an Act which has been duly passed by this House and has received the assent of the President. May I know, Sir, in view of this contradiction, whether we can proceed with this measure?

**Shri Biswas:** May I draw the hon. Member's attention to the provisions of clause 8, sub-clause (2)—the last few lines—"...and shall so apply in super-session of the provisions relating to such representation contained in the Representation of the People Act, 1950 (XLIII of 1950), the Government of Part C States Act, 1951 (XLIX of 1951) and the orders made under either of the said Acts."

**Mr. Speaker:** I think the position is very clear and the point of order hardly arises if he looks to the provisions of the Bill. But, in any case, I am inclined to think that, assuming for the sake of argument, there is no such provision, the Select Committee will consider if there is any inconsistency and will make its own recommendations if there is anything which conflicts with previous Acts passed by this House. I do not see how, at this stage, it could be said that there will be no changes at all or departure from the provisions there. It is premature to say so now.

**Shri Biswas:** Sir, I have nothing to reply to. As I stated at the beginning, opinions may differ. Different opinions have been expressed in this House and different opinions have been expressed by those whom we consulted. All these will be considered by the Select Committee.

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

"That the Bill to provide for the readjustment of the representation of territorial constituencies in the House of the People and in the State Legislative Assemblies and for matters connected therewith, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Shri Bhawanji A. Khimji, Shri Syammandan Sahaya, Shri Gajendra Prasad Sinha, Shri

K. L. More, Pandit Lingaraj Misra, Shri Rohini Kumar Chaudhuri, Pandit Lakshmi Kanta Maitra, Shri Mohanlal Saksena, Shri N. M. Lingam, Shri Udai Shankar Dube, Choudhary Raghubir Singh, Shri Nemi Chandra Kasliwal, Shri Ranbir Singh Chaudhuri, Shri Govind Hari Deshpande, Sardar Amar Singh Saigal, Shri Kotha Raghuramaiah, Shri Krishnacharya Joshi, Shri Liladhar Joshi, Shri A. M. Thomas, Shri C. R. Basapa, Shri C. Madhao Reddi, Shri Choithram Partabrai Gidwani, Shirmati Renu Chakravarty, Shri P. T. Punnoose, Shri Girraj Saran Singh, Dr. Manik Chand Jatav-vir, H. H. Maharaja Rajendra Narayan Singh Deo, Shri N. R. M. Swamy, Shri Radha Charan Sharma, Shri Ranjit Singh, Shri P. N. Rajabhoj, Shri Awadheshwar Prasad Sinha, Shri Shankar Shantaram More, Shri B. S. Murthy, Shri N. C. Chatterjee, Dr. Syama Prasad Mookerjee and the Mover with instructions to report by the 22nd November, 1952".

The motion was adopted.

#### INDIAN PATENTS AND DESIGNS (AMENDMENT) BILL

**The Minister of Commerce (Shri Karmarkar):** I beg to move:

"That the Bill further to amend the Indian Patents and Designs Act, 1911, be taken into consideration."

Sir, this is largely a non-contentious measure and I will not tire the patience of the House by making any long speech at this stage. The objects and reasons are quite clear and I content myself with giving, in brief, the background of this measure.

Sir, the law of patents came in for an amendment in 1950. Since the Government thought that that law required reconsideration, we appointed a committee with Dr. Bakshi Tek Chand as Chairman. They submitted originally an interim report in 1950 and in accordance with their recommendations we did initiate legislation. That Bill became law in 1950. At that time they went also into another question, namely, as to what should be our policy in respect of food and medicines and similar materials. At that stage they thought that we need not undertake legislation in respect of these. Now, Sir, the various vicissitudes through which our law has passed have not taken note of the national requirements as they might have been taken into consideration from time to time.

One of the characteristics of the working of our patent law has been the relatively large number of foreign nationals to whom these patents have been given and we thought that with a view to making inventions in respect of substances capable of being used as food or medicine easily available to our countrymen, such an amendment was necessary. In other countries these national interests have been very well safeguarded. For instance, I find in Japan and Germany these articles, namely, food, medicines and curative devices, have been kept absolutely outside the purview of the patent law. Now obviously whereas the principal object of any law of patents is to give the inventor of any particular process the fruits of his invention, at the same time it is equally necessary that steps should be taken to see to it that the patentee works out his invention to the fullest possible extent within the country and, on the other hand, that he does not misuse or abuse the rights prejudicially to public interest. Now in respect of the present subject matter the law in the U. K., for instance, covers this adequately. In the U. K. the subject is governed by section 41 of the Patents Act, 1949. It provides that where patents are in force in respect of, firstly, substances capable of being used as food or medicines or in the production of food and medicines, or secondly, a process for producing such a substance as aforesaid, or thirdly, any invention capable of being used as or as part of a surgical or curative device, the Controller shall grant a licence under the patent on suitable terms unless there are good reasons for refusing the application. It has also been provided there that in settling the terms of such licences the Controller shall endeavour to secure that food, medicines and surgical and curative devices shall be available to the public at the lowest prices consistent with the patentees' deriving a reasonable advantage from their patent rights and the licence thus granted would enable the use of the invention in derogation of the normal rights of the original patentee.

Sir, it was urged before the Patents Enquiry Committee that with a view to making food, medicine and surgical and other curative devices available to the public at lowest prices consistent with the patentee's deriving a reasonable advantage, there should be a suitable amendment in our present law to provide that patents in respect of any invention in this field should be subject to the grant of what are known as compulsory licences. On a consideration of this question, our Patents Enquiry Committee did not think at that time that conditions in this country at the present are such as to justify

the making of a similar provision in the Indian Patents Act. But in 1950, however, Sir, the Indian Pannicillin Committee requested the Government of India to take steps for amending our law on the lines of section 41 of the U.K. Patents Act, 1949, which I have just summarised. Since then Government gave very careful consideration to the matter arising out of the absence of such a provision.

Now, Sir, the principal difficulty in respect of the subject-matter of this amendment has been this. It will be seen that the power of the Controller of Patents and Designs at present to grant working licences in respect of patents is very much restricted. Such power can be exercised only under certain conditions. For instance, a condition is there providing that a period of three years must elapse from the sealing of the patent before any person can apply for the licence. I will not reproduce the other conditions. They are to be found in sub-section (2) of section 22 of the Indian Patents and Designs Act. It will be easily appreciated, Sir, that the insistence of these conditions in respect of articles like food, medicines etc., would not prove conducive to the best interests of the country. This Bill, therefore, seeks to amend the law in the desired direction. Clause 2 will enable the Controller of Patents and Designs to grant in his discretion working licences on patents for articles of food, medicines etc., on terms to be determined by him. In fixing the terms the Controller is required to take into consideration the patentee's right to remuneration for his invention and that articles to be manufactured under these licences should be made available to the public at the lowest possible prices. Clauses 3 to 5 are merely consequential amendments of the main Act. I will content myself, Sir, with these observations at the present stage.

**Mr. Speaker:** Motion moved:

"That the Bill further to amend the Indian Patents and Designs Act, 1911, be taken into consideration."

**Shri Bansal (Jhajjar-Rewari):** Sir, while I rise to support this Bill, I am sorry that I have to enter a caveat and that caveat is as regards the non-implementation of many of the recommendations of the Patents Enquiry Committee. This Enquiry Committee was appointed in 1948 with Bakshi Tek Chand as Chairman and Sir Gurunath Bewoor and other very prominent authorities on the patent law in this country as members. That Committee gave an interim report and an amendment was made in the Act on the lines of that report. After that, in 1950, a full report was submitted by



[Shri Bansal]

that Committee; and in that report, Sir, very important recommendations were made on such vital subjects as better inspection of specifications, opposition proceedings, separate Act for Designs and Patents the Patent Office, which according to the Committee, was working in a very unsatisfactory manner, Advisory Committee for the working of the Patents Act, publicity for Indian Patents, income-tax provisions, international convention etc.

Sir, it is the experience of this House and the public outside that while Government appoint one Committee after another, it has taken years to implement the recommendations. Not only that, there is no machinery even to consider the recommendations of the various Committees and Commissions. I would like to know from the Commerce Minister, Sir, whether the report of the Patents Enquiry Committee has been considered by his Ministry, and, if so, what steps are being taken to implement at least those recommendations of the Committee which are acceptable to Government. Sir, I know in a number of cases, the Ministries after receiving the reports of the Committees.....

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** Sir, may I intervene at this stage and inform the hon. Member that the Ministry is considering the report of the Committee and is proposing to bring in amending legislation and it is hoped that it will be possible to introduce legislation by the end of the session and table a motion for circulation of the Bill.

**Shri Bansal:** I thank the hon. Minister for the assurance he has given on the floor of the House and I have nothing more to say.

**Shri V. P. Nayar (Chirayinkil):** Sir, I think this is yet another attempt on the part of this Government, to bring forth certain amendments on the pretext of making the law up-to-date and for nothing else. I think, Sir, this only adds to our accumulated experience and experienced disappointments, and convinces us of the impotency of this Government to enforce necessary legislation. I cannot say anything more than that. Sir, I was really surprised how this Government, which claims to be the Government of the people, comes forward repeatedly with such legislative "make believes". I do not find anything else in this legislation. I will convince you, Sir, that this is just to show our people that here is a Government which wants to take the opportunity into both hands and fill up

the loopholes in existing legislation and nothing beyond that.

Sir, this Bill is brought before us after a preliminary report by an Expert Committee and a full report by the same Committee, under the presidency of Shri Bakshi Tek Chand. The hon. Minister gave us the assurance that he is considering it. I do not know for how long he will go on considering it. I find that the report was signed on the 30th April, 1950. In the usual way and subject to our usual disappointments, this Government has been considering this report and nothing has been brought forward except this trifle of a so-called amendment.

Sir, I may be permitted to make some references to the Report because they are relevant. This is what the Report says on page 30:

"The amending Act of 1930 did not include any of these provisions of the British Act of 1919. The absence of these provisions undoubtedly favoured the foreigner and enabled him to abuse his patent rights in India to the detriment of the people of this country."

May I ask the Government through you, Sir, what have you done for all this? Your own Expert Committee says that the law of Patents is enforced in India to the advantage of the foreigner and to the detriment of our own people. Two years have passed. Sir, I am really surprised how they dare to dope this House with honeyed words now.

Sir, I shall give you some instances of how negligent this Government has been in bringing forward necessary changes in legislation. There is an interesting figure in this report. It says that as against about 10,000 patents owned by the Foreigners in India, the Indians own only a negligible 763. Am I correct?

**Shri T. T. Krishnamachari:** I do not dispute it.

**Mr. Speaker:** What is the statement in the Report? Is it the Interim Report or the final Report?

**Shri V. P. Nayar:** Here it is, on page 50 of the Final report, Sir. "10,692 patents were in force on the 31st December, 1949. Of these 763 had been granted on applications of Indian origin". I do not know how many of them are now in Pakistan. Sir, this report, if examined in detail, will provide ample evidence of the lack of any sense of proportion and the lack of any

desire to go into the needs of the people for such legislation. It is not necessary for me to find out other reasons outside this report. I can show from this report itself instances after instances. On page 50, again, Sir,.....

**Mr. Speaker:** May I just point out one thing? The proposition before the House is the Bill as it is brought. What the hon. Member has said may be a matter of introduction and as such these observations may be considered relevant. But we are not going into the fault of the Government in not considering the recommendations and bringing in amending Bills for whatever is needed. That would be irrelevant for the present purposes.

**Shri V. P. Nayar:** May I request you to hear me patiently? I am not going into the details of this report. It will not be possible for me to finish my speech even within four hours, if I were to do so. I shall confine myself to the absolutely relevant points.

**Mr. Speaker:** I was just pointing out to him that, whether he quotes one instance or a thousand instances, it does not really make any difference, because the point at issue is not that. The House is not called upon to express an opinion on the remissness, negligence, or idleness of the Government. Therefore, it is no use taking the time of the House unnecessarily and dilate on that point. I have allowed him to speak for some time, and if he likes he may suggest an instance or two more, but then those will be more or less introductory things. He must only say whatever he has got to say on the merits of the Bill before the House.

**Shri V. P. Nayar:** I am trying to convince this House that through lack of the necessary amendments to this legislation, the inventive skill of Indians has been affected. You will find from the report that during the period 1942 to 1946 the majority of the applications for patents by Indians have been confined either to malarial drugs or insecticides. In 1949, 90 per cent. of applications related to Penicillin:

When we have 10,000 foreign patents and only 763 Indian patents, it shows how Indian skill and inventive genius have not been allowed to thrive. What is the object, then, of bringing forward this legislation and asking us to give our votes on such amendments? This is how the Government have failed in their duty, and it is necessary that the law should be modified radically. We do not know why the Government fights shy of it.....May I continue, Sir?

**Mr. Speaker:** I am afraid I cannot accept the relevancy of the argument

any further. He has made his point sufficiently to my mind, and after the assurance of the hon. Minister that he may await the other legislation, I cannot see what more can be said on the subject. Simply because he does not get all that he desires to have, he cannot say that we should not consider what little the hon. Minister has placed before us. This is not a debate on the report. It is not a debate on the industrial policy or the patents policy of the Government. The field is very much restricted. Otherwise, everybody will speak on the entire policy of the Government in the industrial field and will point out how it should be done, and what patents should be accepted and what patents should not be accepted, and all that sort of thing.

**Shri V. P. Nayar:** With profound respect to the Chair, may I submit that this was not the spirit in which this Government had brought forward the previous legislation?

**Mr. Speaker:** I am not concerned with the spirit in which they then moved the legislation. Not at all. I am at present concerned with the procedure in regard to the discussion of the proposition before the House. My difficulty is that, unless I allow the hon. Member a free field to go into something which is not relevant to the present issue, I am unable to see how he can be permitted to go on.

**Shri V. P. Nayar:** I was submitting this to you Sir, because an assurance had been given to this House by the then hon. Minister, Dr. S. P. Mookerjee. That is precisely the point. On the 8th April, 1950 an amending Bill was brought.....

**Mr. Speaker:** I am sorry I cannot allow him to go on in that way. He may speak on the Bill. Let him come to the Bill if he wishes. If he cannot, he may discontinue his speech.

**Shri V. P. Nayar:** I am coming to the Bill.

**Mr. Speaker:** He may come to it immediately.

**Shri V. P. Nayar:** I am only trying to quote what Dr. S. P. Mookerjee had said on the occasion of the previous amending Bill. This is what he said:

"We will have to wait until the final report of the Patents Advisory Committee is received but we think that this matter being urgent, it would be desirable to amend the law in regard to the changes that the Patents Advisory Committee has unanimously recommended."

[Shri V. P. Nayar]

So, at that time when Dr. S. P. Mookerjee piloted this Bill both the brute majority as well as the small minority.....

**Mr. Speaker:** It is not fair to say "brute" majority.

**Shri V. P. Nayar:** I withdraw that word, if you so desire.

**Mr. Speaker:** What is the date of the speech?

**Shri V. P. Nayar:** 8th April, 1950. At that time, neither the majority nor the minority had anything to say on the Bill presumably because Dr. S. P. Mookerjee gave an assurance that he would go into the necessary changes which had been recommended for in the preliminary report itself and that the moment they got the final report, Government would revise the law. Now, my point is that this has not been done. That is why I submit that this Bill need not be considered now. At that time, I am positive that the thundering eloquence of Dr. S. P. Mookerjee would have had its day in the house, especially as no communal question was involved in it. On that day neither side spoke anything and immediately after the Minister's speech, you, Sir, had put the question. Not a single Member had anything to say, because every Member—both in the majority and in the minority—believed that Government would not be lukewarm on this legislation. At that time, we who were not in the Legislature had also some hopes. But after the lapse of two years this is the amending Bill that we see, although the Committee's report contains several pages of very relevant matter. That is why I was forced to submit my earlier arguments.

Now, I would like to say something about patents themselves, because I can speak on that subject with some personal knowledge and experience. First of all, medicine as it is practised in the country at present is treated as a subject of commerce. It is not regarded as the function of the State to provide medical facilities to the people. It is used as a means for the doctor to get money and for the patentee to get money. The whole system of allopathy, as I see it now, would appear to be based entirely on patent medicines. If you go to a doctor and tell him that you want a medicine for headache, he would give you a patent medicine; if you ask for some remedy for constipation, he has a patent medicine. If you suffer from dysentery, then too he will give you a patent medicine. Even if you suffer from pneumonia,

there is a patent medicine. For every disease, there is a patent medicine.

Recently, I had the misfortune to go to a specialist in Delhi, the great capital of India. I had a close relation of mine who required treatment for an eczema on the toe. It was very small; still, I did not want to take any risk. So, I went to the specialist, and this specialist was the only one available here. He gave me a list of prescriptions. I had only to pay Rs. 75 for the patent medicines which that small list contained! Of course, I had to pay a negligible amount as fees—Rs. 32 per visit and two visits per day. That is what happened. I could not have avoided going to that doctor, because he was a specialist and I wanted quick cure. In the end, that doctor and his patents succeeded in relieving me of about Rs. 1000 which I had managed to have in the bank with the industry of the bee and the economy of Midas, the miser. I was completely broke. If an M.P. getting Rs. 40 per day as allowance could not afford a treatment with patent medicines, how can the poor people of India who die by the millions due to tuberculosis, malaria, dysentery, enteric fever and every other sort of epidemic and endemic afflictions afford to have medical relief, I say that this is the result of the policy of this Government as regards patents. The law of patents as it has existed has not in any way helped Indian ingenuity to thrive. That is why, I submit that it required some changes, but such changes have not been touched upon by this Government. That is why I submitted at the outset that before the 'Ayes' are voted in this House, Government ought to have bestowed some consideration on this subject. I shall not talk anything irrelevant, because I have a greater regard for our time than what this Government has. I shall be as brief as possible.

So, Sir, this is where we stand in relation to our patents. Then, I was surprised to find in this, I should say 'great' city—because it is oftentimes spoken of from that side as the "great city with all its ancient glories"—that, right under the nose of our Ministers, an empty tin of Cuticura talcum powder fetches four annas. A bottle-wala offers to give you four annas for an empty tin of Cuticura powder and one anna for a wrapper of Sunlight soap. It is not the fault of the bottle-walas or the manufacturers who want to collect them—it is not at all their fault. You have created in this country such a craze for patents; you have created in this country a condition

under which no Indian manufacturer can afford to compete with foreign-owned patents. It is because somebody who wants to manufacture first class talcum powder, finds it impossible to sell it—it is because of that. Whatever be the quality of talcum powder which is made here, whatever be the quality of germicidal soap which is made here, it is impossible to sell it in this country, because there is the monopolist patent owner. In the face of that Indian business has been completely ruined. Otherwise, how can you expect an empty tin of Cuticura Powder (which with the contents is available for one rupee) which is not worth half an anna, to fetch four annas? That is because of the craze of the people for foreign patents. That is why I stated that the measure as it has been brought forward before the House, needs no consideration and the House should reject it with the warning that the Minister should not bring forward such legislation in future. He must follow up the reports and go through every page and every line of his expert Committees' reports and try to meet the requirements of the Committee and of the people.

Sir, before I resume my seat, I would like to quote to the House, with your permission, a line from a speech of Shri Hariharnath Shastri on 8th April, 1950 on the conditions of labour in this country. He must have said it with an agony of heart then.

**Mr. Speaker:** I am not preventing the hon. Member but I wish just to see what the extract is about. The conditions of labour may be anything. I do not see what connection it has with the patent law in this country—I really fail to see that.

**Shri V. P. Nayar:** I am forced to quote this, because I have explained to you that the law of patents has been bad: it has been on the imperialist pattern in which it was moulded, right up to now, even in spite of the very clear report of the Expert Committee. The law has not been changed and the conditions prevailing as regards this law are such that I am inclined to quote only one sentence from Shri Hariharnath Shastri because of its relevancy here. He said: "I can say only this—may God save our country."

**Shri Karmarkar:** Sir, I have not much to say in reply. I was a little confused myself when my hon. friend opposite was trying to elaborate his argument. I first was tempted to think by the way in which he began that he had studied this report, but had just forgotten to study the Bill under consideration at the moment. The latter half of his observations tempted me to

feel that what he had suffered by reason of the patent medicines, he was trying to visit on us here when we are having this Bill before us.

The reason why I say so is this. It is precisely to help friends like my hon. friend opposite that we have brought forward this Bill. Under the law as it existed earlier, supposing a foreigner, whether it is Cuticura or somebody else—a foreign national, is having a patent under our patent law: for sixteen years, though the formula was known, no one can manufacture that item, with the result that prices could be held up, imports could be curtailed with a number of inconveniences to our own countrymen. The amendment that was effected two years back sought to lay down that no other application should be entertained within two years after the first patent was sealed. Since we thought that food, medicines and surgical necessities were of very great importance to our countrymen we have brought forward this amendment.

The effect of the amendment will be this. Let us assume that X in a foreign country holds a patent inside our country. Under the law as it exists at present, for three years that patent remains sealed, with the result that we could not help our countrymen against the possible abuse of that privilege. Under the amendment proposed now, my hon. friend will be comforted to know that we shall be able to help ailing friends like him by seeing that in case there is any handicap on account of any foreign national abusing a patent, a patent is issued to an applicant immediately on application. For instance, if my hon. friend—God forbid—has again to undergo a similar misfortune and has to purchase highly priced patented medicines, what would happen is this. A countryman of ours would apply under the present amended legislation—after my friend has voted for this measure—for a patent. For example, if Cuticura is a patent owned by a foreigner, we shall keep its formula open, so that any of our own countrymen will be able to manufacture it, in spite of the fact that that patentee has got certain rights. It is precisely with the object of saving our country from the handicaps that my hon. friend referred to, that this piece of legislation has been brought forward.

We have brought forward this measure in order to give priority to food, medicines, surgical and curative appliances. I, therefore, do not understand why my hon. friend should oppose this measure. If he opposes it he will stand to lose; others will stand to lose; people who want cheaper medicine will stand to lose.

[Shri Karmarkar]

I do not want to dilate further, but I do hope that by the time that we come forward with a comprehensive law, as my hon. colleague pointed out, shortly, I hope my hon. friend would not only have studied this report with care, but also the particular Bill that we shall be bringing, because ultimately by a study of the Bill is of very great help to this House as well as to Government. We appointed the Committee, to which my hon. friend referred, with a view to review the whole law. The Patent Law was first formulated in 1836. From then on that law has been amended just to suit the Government of those days. We appointed that Committee to bring the law into line with the existing circumstances. We appreciate very much the labours of that Committee. There is a very precious report and I am very happy to say that Government have been able to agree with a large number of their recommendations. We thought that time was of the essence so far as food, medicines and surgical and curative devices are concerned and we did not want to wait for the more exhaustive measure. Therefore we have brought this amending Bill because it has an importance of its own. As my hon. colleague has said, we hope to introduce in this House during this session, before the session closes, a fully exhaustive Bill in this regard.

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

"That the Bill further to amend the Indian Patents and Designs Act, 1911, be taken into consideration."

The motion was adopted.

**Mr. Speaker:** We will now take the Bill clause by clause. As there are no amendments I propose to put all the clauses together.

The question is:

"That clauses 1 to 5 stand part of the Bill."

The motion was adopted.

Clauses 1 to 5 were added to the Bill.

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

**Shri Karmarkar:** I beg to move:

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

### MYSORE HIGH COURT (EXTENSION OF JURISDICTION TO COORG) BILL

**The Minister of Home Affairs and States (Dr. Katju):** I beg to move:

"That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, be taken into consideration."

This is a very small matter as hon. Members would have seen from the Statement of Objects and Reasons. Coorg is a very small State. Formerly, up to the year 1948 it used to have a Judicial Commissioner who was the final court of appeal for that State. In 1948 it was found that this was rather an inconvenient arrangement and that there might be a better provision for the disposal of final appeals, both civil and criminal; and therefore an order was promulgated conferring this appellate jurisdiction on the Madras High Court in place of the Judicial Commissioner, Coorg. Now for four years this arrangement has continued. It is very satisfactory from every point of view but one, namely of distance. Hon. Members will be aware that in order to go to Madras from Coorg you have first to go to Mysore, from Mysore to Bangalore, and then from Bangalore to Madras. This involves considerable expense to the litigants, and also inconvenience. The point therefore was raised that this inconvenience might be done away with by conferring the appellate jurisdiction on the Mysore High Court in place of the Madras High Court. This has been concurred in, and both the Governments are agreeable. This Bill intends to give effect to that arrangement.

The substance of the Bill really is that in every Act, in place of the word 'Madras' you have to read the word 'Mysore'. There is the ancillary provision that decrees and orders so far pronounced by the Madras High Court shall, after the passing of this Bill, be enforceable as if they had been passed by the Mysore High Court. And in the Schedule the House will find certain enactments passed by the Central Legislature where original jurisdiction has been conferred upon High Courts in relation to every part of India, and for Coorg that original jurisdiction has been conferred on Madras. Now in place of 'Madras' it is proposed to substitute the word 'Mysore'.

I do not want to take up the time of the House any further. It is really a formal matter and should arouse no controversy.

**Mr. Speaker:** Motion moved:

"That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, be taken into consideration."

**Shri Madiah Gowda** (Bangalore South): Sir, I rise to support this Bill. The State of Coorg and that of Mysore are very identical in very many matters—not merely in their aims and aspirations but also in their manners and customs and culture and tradition. Coorg is just in the western boundaries of Mysore and is very close to Mysore in all respects. The language of Coorg is the same as that of Mysore, namely Kannada. But I hear that none of the Judges of the High Court of Madras know Kannada—of course I speak subject to correction. If it is so it is rather justifiable that the High Court of Mysore should exercise jurisdiction over the judicial affairs of Coorg. Regarding the distance, Bangalore is only about 150 miles from Coorg, whereas Madras is nearly 400 miles. Not only will litigation be cheap in Mysore, but the distance is rather prohibitive for the people of Coorg to go to Madras and have their judicial affairs settled. There is a good road connection between the State of Coorg and Mysore. Unfortunately, there is no railway connection. In Coorg, so far the people of that State have not seen a railway line. I hope by the agitation of the Governments both of Coorg and Mysore and the people of those States Coorg will have a railway line as early as possible.

[MR. DEPUTY-SPEAKER in the Chair]

One other factor which has to be taken into consideration in this connection is that the Mysore State Service is held by a number of Coorgis, in civil, military and judicial departments, for a very long time. The present Chief Justice of Mysore is a Coorgi and is known for his judicial calibre and integrity. For all these reasons, Sir, I consider that the step taken by the Ministry of Home Affairs is in the right direction and it helps the people of Coorg to come nearer to Mysore as they are always held to be dearer to them.

4 P.M.

One other point I wish to submit in this connection. I heartily congratulate the people of Coorg for their wisdom and foresight in having agreed to come under the jurisdiction of a High Court in the matter of their judicial affairs. This was in the year 1948. This is no doubt a very wise move. Even now I hear very many Part C States are under the appellate jurisdiction of Judicial Commissioners. It is

only Coorg State that was very wisely thought of in the year 1948. I hope Government will take suitable action to see that all other Part C States also come under the jurisdiction of some High Court in the neighbouring Part A or Part B States. With these observations I heartily support this Bill.

**Shri S. V. Ramaswamy** (Salem): I rise to support this Bill. I shall move some amendments with a view to improving the Bill because I find there are some lacunae in it. Some amendments are very minor. The definition "proceeding in relation to Coorg" in clause 2, part (c) is one. In lines 25 and 26 it is "proceedings in relation to Coorg". At four or five different places singular is used. All the words may be plural. That is the purpose of one of the amendments. The other amendment is one of importance in clause 4. There are cases where a judgment may be written but not delivered. I would like to bring to your notice that there is the following entry in the Civil Procedure Code, Order 20, Rule 2:

"A Judge may deliver a judgment written but not pronounced by his predecessor."

But, Sir, if you kindly look into the Criminal Procedure Code, there is no provision analogous to Order 20, Rule 2. There is only Sec. 367, a provision analogous to Rule 3 namely the delivery of judgment and the signing and dating. What I submit is that if there is a case where a judgment is written by the Judge or Judges of a High Court but not delivered a proviso like this may be provided where Order 20, Rule 2 may be applied. In criminal cases too the Appellate Criminal Bench of the High Court of Mysore may simply deliver the judgment written by the High Court of Madras.

Next, Sir, in clause 5 I seek to introduce the word "judgment" after the word "any" to read as follows:

"Any judgment, decree or order".

And in line 32, for the word "an" read "a judgment, decree or".

In line 33 also for the word "an" I am seeking to read thus:

"a judgment, decree or".

You will see, Sir, that a judgment may be delivered but a decree may not be drafted. There may be a lapse of time. If after the delivery of a judgment the appointed day is exceeded, then what happens to the decree or decretal order. In order to provide for such a contingency, I am submitting Sir that the word "judgment" or "decree" may also be added so that in the actual working there may be no difficulty. It is for

[Shri S. V. Ramaswamy]

this reason that I propose to move these amendments and I hope the Government will not find it difficult to accept them.

**Shri Raghuramaiah (Tenali):** Sir, I do not think that there is really any need for most of the amendments suggested by my friend. In the first place he has suggested that substitution of the word "proceedings" for "proceeding". It is a very novel thing in the interpretation of laws to suggest that where the word "proceeding" is defined it will not include "proceedings". Just now we have been referring to 'patents'. Supposing the word "patent" is defined. Does my hon. friend mean to suggest that, it is incapable of being applied to the plural "patents"? I would advise my hon. friend to read any book on interpretation of laws.

**Mr. Deputy-Speaker:** I am afraid the hon. Member has misunderstood it. All proceedings will be transferred. What is there in proceeding being singular. There is no conflict. It is not only one proceeding that is defined. That has to be transferred. A proceeding is defined and all proceedings pending in one court are transferred to another court. Why should there be singular and plural in that? Plural is there where it is necessary. Singular is defined. I do not think there is any need for a new amendment.

**Shri Raghuramaiah:** The next point is about judgments made and not delivered. This refers to proceedings in the High Court of Madras. I have myself practised there for some time and I know a High Court judgment is complete only when it is delivered. Therefore the case of a judgment prepared at home and not at all delivered does not arise. This amendment also is therefore hardly necessary.

There is of course one other amendment which my friend has referred to. That relates to clause 5 "Effect or orders of Madras High Court". In the opening sentence reference is made to any decree or order but subsequently throughout that clause only the word "order" is referred to. Since an order may not be a decretal order I would suggest the addition of the word "decree" alongside "order" wherever the word "order" occurs in that clause. It might also be helpful if we specify 'judgment' alongside "order", the idea being that any judgment, decree or order in any proceeding relating to Coorg made before the appointing date, shall have effect not only as a judgment, decree or order as the case may be of the Madras High Court, but also

as if it were a judgment decree or order of the Mysore High Court. It is, I agree, a purely verbal amendment but I think it will be advisable to have it, to avoid complications.

**Shri N. Somana (Coorg):** On behalf of the people of Coorg it is my duty to express my gratitude to the hon. Minister for Home Affairs for having brought this Bill before this House. Sir, it will not be out of place for me if I say that the people of Coorg have desired for a long time for the extension of the jurisdiction of the High Court of Mysore over Coorg and for nearly ten years discussions were going on in the Coorg Legislative Council about this matter. It was then found that Mysore being a Native State as it was so-called then, there was a technical difficulty. It was on that ground that in 1948 it was agreed that for the present the Madras High Court should be the High Court for Coorg. Now that, fortunately, the Mysore High Court is placed on the same level as the Madras High Court, and the laws in force there are the same as in other parts of India, we find there will be no legal difficulty in constituting the Mysore High Court as the High Court for Coorg. The hon. Minister for Home Affairs has stated clearly how it is more advantageous for the people of Coorg to have the Mysore High Court as the High Court for Coorg. I would also like to mention about the cost of litigation which the hon. Member, Shri Madiiah Gowda referred to. As a matter of fact, the litigant public of Coorg were finding it extremely difficult so far as language was concerned, because, every document that had to go to the Madras High Court had to be translated into English. Very often we found difficulty in getting a correct translation and the translation was also found to be very costly, though, as the hon. Minister for Home Affairs stated, we found the arrangement with the Madras High Court very satisfactory in all other aspects.

**Shri Velayudhan (Quilon cum, Mavelkkara—Reserved—Sch. Castes):** In Mysore do they know your language?

**Shri N. Somana:** They do. The arrangement now proposed under the Bill would facilitate easy litigation. There is one more advantage. It is also possible for the advocates from Coorg to go to Mysore and Bangalore and appear in their own cases. As it is now, advocates from Coorg cannot go and practise in the High Court of Madras. Even in that way, it would be helpful to the litigant public and to the advocates practising in Coorg. We have found from experience that, so far as advocate's fee and printing charges

are concerned the Mysore High Court is decidedly much cheaper than the Madras High Court. All these factors being taken into consideration, this is a very welcome measure and we are, as I said, really thankful to the hon. Home Minister for having introduced this Bill.

There is one small matter which I think I should bring to the notice of the hon. Minister for Home Affairs. There is an Act known as the Coorg Courts Act, passed in 1948, by the Coorg Legislature, in which it is stated that so far as the Coorg courts are concerned, Madras is the High Court. It is necessary that a consequential amendment of that Act should be made. I request the hon. Minister to issue the necessary directions to the Coorg Government to make the necessary consequential amendment in that Act of 1948. Otherwise, an inconsistency may arise.

So far as the amendments proposed by the hon. Member Mr. Ramaswamy are concerned, I think they have been sufficiently answered. I agree with Shri Raghuramaiah that no amendments are necessary. As regards the difficulty which Mr. Ramaswamy felt about the delivery of judgement, I certainly endorse the view that has been expressed by Mr. Raghuramaiah that in all cases where judgments are written and signed, they are delivered without any delay. Judgments are signed and delivered on the same day and that even if any such contingency were to arise, there will be no difficulty because there are provisions of the Civil Procedure Code and Criminal Procedure Code to cover such cases and I learn on authority that the same procedure applies in the State of Mysore also. I should think that in actual working there would be absolutely no difficulty. I also agree with Mr. Raghuramaiah that so far as clause 5 is concerned, it is not very explicit and the amendment that he suggested, of including judgment in that clause, may also be taken into consideration. It is only a verbal change and I think the hon. Minister will kindly agree to the amendment. That would not really affect the substance of the clause.

With these words, I once again welcome this measure. So far as I have seen, there is no opposition to this measure and I hope the House will adopt this measure unanimously and thus relieve a difficulty which was being faced by the public of Coorg in general.

**Mr. Deputy-Speaker:** The hon. Minister.

**Shri S. V. Ramaswamy:** May I just.....

**Mr. Deputy-Speaker:** He may speak when I come to the amendments.

**Dr. Katju:** Sir, I am happy to hear this general approval of the Bill. I should like to make one point quite clear that the Bill just indicates what is intended by it, and it has no other significance, namely, it has been brought forward for the purpose of removing an obvious inconvenience, namely, going to a very distant place like Madras and securing justice to the litigants of Coorg nearer home. There is no other significance about this or any other issue which might be raised.

Then, my hon. friend raised very interesting questions namely that the principle of this Bill might well be applied to the other Part C States. I have great sympathy for that suggestion. I am very glad to see that it has already attracted attention and the matter is receiving consideration by the people of those States and by their Chief Ministers. I do hope that we might be able to make some further progress in that direction. Because, with my experience at the Bar, I can say with some confidence that it is desirable that the final appellate court in every State should be at least a Division Bench, should consist at least of two Judges, and should be of the highest eminence as we can possibly provide.

I am further indebted to my hon. friend on my right here for the very meticulous care that he has bestowed upon the phraseology of this Bill. We expect such a meticulous examination from every Member of the House. I can assure you that we feel indebted because that is the way for careful examination of the language of the Bill so that no mistake might creep in. Many of these amendments are verbal and I dare say will not be moved. As to some others, speaking for myself, I do not think there is any real ground for apprehending any trouble at any stage. The language is fairly clear. But, in order to please my hon. friends on both sides, I shall have no objection to the addition of the words 'Judgment' and 'decree' in clause 5 by way of abundant caution. So far as the apprehension is concerned that there might be judgments unsigned, it is really speaking again from experience of High Courts for many years, rather imaginary. Furthermore, there is one other practical consideration to which I appeal. We are passing this Bill, I hope, this afternoon. It will have to go to the other House and will take another fortnight for its final passage. That will, I hope, give adequate notice to the authorities in the Madras High



[Dr. Katju]

Court to see that any pending case is finally disposed of so that there might not arise any inconvenience in regard to pending litigation. I do not think that it is desirable that we should encumber the Bill passed by this Parliament with such a fleeting provision as was pointed out. There is no such thing as an undelivered judgment. As soon as a judgment is delivered, it is forthwith signed and sealed, and it does not take more than 24 hours for finalising the judgment.

I have nothing more to add, Sir.

**Mr. Deputy-Speaker:** I will now put the motion to the vote of the House. The question is:

"That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, be taken into consideration."

The motion was adopted.

### Clauses 2 and 3

**Mr. Deputy-Speaker:** We will now take up the clauses.

Clause 2. Mr. Ramaswamy need not move his amendment. I do not think it is necessary.

**Shri S. V. Ramaswamy:** It is only verbal alteration, Sir, to make it plural.

**Mr. Deputy-Speaker:** Plural is not necessary.

**Shri S. V. Ramaswamy:** Then it is plural in line 25.

**Mr. Deputy-Speaker:** There is a difference. It is not only one proceeding that is to be transferred. It relates not to one suit. All proceedings whether appeals or original suits, or anything of that kind, will be transferred. Singular in the one case, and plural in the other case are appropriate.

**Shri S. V. Ramaswamy:** It is all right. With regard to the proviso.....

**Mr. Deputy-Speaker:** I am coming to the proviso. Amendments to clauses 2 and 3 are not moved.

The question is:

"That clauses 2 and 3 stand part of the Bill."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

### Clause 4.—(Transfer of pending proceedings to Mysore High Court)

**Shri S. V. Ramaswamy:** It is not as if the judgment is not written and subsequently delivered. Rule 20 provides for such a contingency. However, in view of the assurance given, I am not moving the amendment.

**Mr. Deputy-Speaker:** I am asking the hon. Minister if there are not cases which have come to his notice where a case is heard by a Judge, and before he pronounces the judgment he is transferred. His successor in office delivers the judgment on his behalf.

**Shri S. V. Ramaswamy:** That is exactly my point.

**Mr. Deputy-Speaker:** What Mr. Ramaswamy feels is that similar cases might arise here. A judgment may not be ready, but the proceedings might have been closed. It is unnecessary to make the whole proceedings open once again before the Mysore High Court. The judgment might not be written. After this order is passed, judgment will be written and sent. Then the other Court can deliver the judgment.

**Dr. Katju:** That is provided for in the Civil Procedure Code. Furthermore, I do not think there will be any difficulty. They will wind up all the proceedings in 15 days.

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

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

### Clause 5.—(Effect of orders of Madras High Court)

**Dr. Katju:** There is some mistake in the order of lines there.

**Mr. Deputy-Speaker:** We need not worry ourselves. Mr. Ramaswamy.

**Shri S. V. Ramaswamy:** I beg to move:

In page 1, line 30, after "Any", insert "judgment".

**Mr. Deputy-Speaker:** How does it read? I am not able to follow. There are two "any"s there. I shall put "judgment" after the second.

**Shri S. V. Ramaswamy:** No, Sir. After the first which begins with capital 'A'.

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

In page 1, line 30, after "Any", insert "judgment".

The motion was adopted.

**Shri S. V. Ramaswamy:** I beg to move:

In page 1, line 32, for "an" substitute "a judgment, decree or".

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

In page 1, line 32, for "an" substitute "a judgment, decree or".

The motion was adopted.

**Shri S. V. Ramaswamy:** I beg to move:

In page 1, line 33, for "an" substitute "a judgment, decree or".

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

In page 1, line 33, for "an" substitute "a judgment, decree or".

The motion was adopted.

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

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clauses 6, 7 and the Schedule were added to the Bill.

Clause 1, the Title and the Enacting Formula were added to the Bill.

**Dr. Katju:** I beg to move:

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

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

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

The motion was adopted.

#### RESOLUTION RE LEVY OF EXPORT DUTY ON MERCURY

**The Minister of Commerce (Shri Karmarkar):** I beg to move:

"In pursuance of sub-section (2) of section 4A of the Indian Tariff Act, 1934 (XXXII of 1934), the House of the People hereby approves of the notification of the Government of India in the Ministry of Commerce and Industry No. 35-T(1)/52, dated the 8th October, 1952, by which an export duty of Rs. 300 per flask of 75 lbs. was levied on mercury with effect from the date of the said notification."

I need not detain the House for long, as already a note has been circulated to the Members on this Resolution.

The position briefly is this. In November, 1950 the import of mercury was placed on the open general licence, and the immediate effect was large scale imports of mercury. In 1949-50 the amount of mercury imported was 1,793 flasks, in 1950-51 it jumped up to 37,660 flasks, in 1951-52 it was very much less and was 59 flasks. Our consumption is estimated to be of the order of 4,000 to 5,000 flasks only a year. Accordingly there is still a large quantity of mercury in this country for which there is no immediate use. Repeated representations were made with a view to earning some precious foreign exchange to allow exports of this large imported quantity of mercury to some reasonable extent. Now we find on a rough computation, our requirements having been properly considered, that we can easily export about 10,000 flasks at the present moment. So we announced a quota of 10,000 flasks for export; applications for the export of about 5,000 flasks have already been received, and they are being vetted at the present moment. In the meantime, the average landed price of mercury when it was imported varied from Rs. 391 to Rs. 268 per flask; whereas the latest quotation in the markets in the country is Rs. 397 per flask, the quotation, for forward delivery in the United States of America is \$ 187 or Rs. 850 per flask approximately. In the circumstances, Government thought it proper that an export duty of Rs. 300 per flask should be levied, and this has been done by means of the notification referred to above, with a view to mopping off the large difference between internal and external prices. Now in accordance with sub-section (2) of section 4A of the Indian Tariff Act, 1934, we have now come before the House for its approval of the said notification that has already been issued. I have nothing more to add, Sir.

**Mr. Deputy-Speaker:** Resolution moved:

"In pursuance of sub-section (2) of section 4A of the Indian Tariff Act, 1934 (XXXII of 1934), the House of the People hereby approves of the notification of the Government of India in the Ministry of Commerce and Industry No. 35-T(1)/52, dated the 8th October, 1952, by which an export duty of Rs. 300 per flask of 75 lbs. was levied on mercury with effect from the date of the said notification."

**Shri A. C. Guha (Santipur):** May I ask for a little clarification? The hon. Minister stated that our stock is 37,000 flasks approximately, while our annual requirement is about 4,000 to 5,000 flasks, and so we could export about 10,000 flasks. The present

[Shri A. C. Guha]

stock will continue for about eight years. The hon. Minister has stated yet that only 10,000 flasks we can export. How is this?

**Shri Karmarkar:** I made a modest approach; if more is found possible, we shall consider that also.

**Shri V. B. Gandhi (Bombay City—North):** Sir, I wish to use this present instance of the levy of an export duty on the excess stocks of mercury flasks in the country as an illustration to point out to certain tendencies in our import policy as well as the tendencies in using section 4A of the Indian Tariff Act.

How has the present situation arisen? We see today in our country an excess stock of almost about 28,000 flasks. This exceptionally large excess of import has been the result of our import policy. Here we see in the year 1949-50 only 1,793 flasks were imported, whereas according to the figures supplied by Government, our annual consumption is from 4,000 to 5,000 flasks. Now I wish we had also been supplied figures of imports for the years prior to 1949-50 also. In 1949-50 only 1,793 flasks were imported. Why? They were manifestly very much below the normal requirements of the country. That was so, probably because the import policy over that period was directed towards curtailing the imports of this particular commodity. This very often happens. When the country has to go through periods of prolonged starvation for want of certain commodities, and a situation that is really acute develops, then suddenly there is a reversal of policy, and then open general licence system is started. The result is that it is only natural that the reaction of this prolonged period of starvation of certain commodities in the commercial community is to rush to import as much as they can while importing is permitted. That is the reason why in a single year we find that this country imported as much as 37,660 flasks, which is almost six to seven times the normal annual requirements. Again the reaction in the other direction followed. In the following year, the imports were only 59 flasks.

**Shri Bansal (Jhajjar-Rewari):** But there is no ban on it.

**Shri V. B. Gandhi:** That is a very important point. Now consider the imports in the three consecutive years. In 1949-50 it was only 1,793 flasks, almost one-third of our normal requirements. In 1950-51, it was 37,660 flasks, almost seven times of our normal requirements; in the following year it was only 59 flasks. I am sure that imports

have now completely stopped, although as my hon. friend Mr. Bansal has pointed out that there is no restriction on imports. The restriction that now operates on imports is two-fold: one is that we have an excess of stock in the country and the other is that the external price of mercury has risen phenomenally. Now in this particular development, Sir, my feeling is that in the first place, a certain portion of the blame must be laid at the doors of the department that is responsible for the import policy. As I said in the very beginning, I propose to use this particular instance as an illustration. I have an unforgettable impression of what happened in the case of imports of penicillin just about two years ago and what a mess the Government of Bombay did in stepping in and issuing an Ordinance to control the price of penicillin.

Now, Sir, it has been the general impression and also the experience of many that our import policy has been working—I do not know how exactly to express it, but for want of a better expression I will say that our import policy has been operating by jerks, instead of there being a real long-term thought being given to the policy as far as it is possible under the present uncertain and abnormal world conditions. There should be a definite attempt to smoothen the ups and downs, the sharp ups and downs, as far as possible. Now, Sir, I am not quite sure whether the Government is really justified in levying this export duty. I have my own doubts, Sir, whether we are right.....

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** Morally?

**Shri V. B. Gandhi:** Well, I will come to some of these aspects, Sir. I have my own doubts whether we are right in using section 4A of the Indian Tariff Act for the purpose of levying this duty on a commodity like mercury. My reason is that section 4A of the Indian Tariff Act was intended for quite a different purpose. Now in Schedule II attached to the Indian Tariff Act, there are only nine items included. And what are those items? The items in Schedule II of the Act are like this: raw jute, jute manufactures, raw cotton, rice, tea, cloth—certain kinds of cotton cloth, manganese ore, oilseeds and vegetable oils. Now, Sir, all these items are items of products which are either the produce of this country or are the manufacture of this country.

Mercury, in the present instance, is neither of this kind. We do not produce mercury in our country; nor can it be considered as forming any one of the regular items of our export trade. And section 4A of the Tariff Act, therefore, can be applied only in a very far-fetched sense for a levy of this kind on a product like mercury.

Now, there is also, in my opinion, no analogy between the situation as it exists in respect of mercury...

**Shri T. T. Krishnamachari:** May I point out that section 4A reads thus: "Where in respect of any article, whether included in the second Schedule or not....."

**Shri V. B. Gandhi:** Thank you. I see that, but as I have said, it is my own feeling. From the general trend of this section and the nature of the items included in that Schedule as they are, I have my own misgivings whether we are really right. Anyway I am coming to the other point. That is, there is really no analogy between the situation that existed in respect of jute and groundnuts and the situation that now prevails in respect of mercury. After all, Sir, there the Government was not only right in stepping in to mop up the windfall profits that were then arising in trade in jute and groundnuts, but if Government had not intervened, I think Government would have failed in its duty. In respect of jute and groundnuts in those days the situation was that first there was that devaluation which created a situation which threw enormous windfall profits into the laps of exporters for nothing that they had done. There was the Korean War. That created an abnormally keen demand for these products and in that particular case again, the exporter was paying the indigenous producer a low price, in comparison to what he was getting for his exports for all these extraneous reasons. Now, what is the situation in respect of mercury? Of course, there is no Indian producer in the case of mercury, but there is an Indian consumer. Is the Indian consumer suffering in any sense? No. According to the information given to us in the note, the present price in India is just about Rs. 397, whereas the cost of importers ranges from Rs. 391 to Rs. 258. Now, that is a very perfectly fair deal that the consumer is getting in India. Under this situation I cannot really understand how Government would be justified in stepping in and trying to levy this export duty with the avowed object as is stated in the note, of mopping up 301 PSD

large differences between the internal and external prices.

**Mr. Deputy-Speaker:** Was the purchase price during any of the previous years much higher than the price at which mercury is sold now?

**Shri T. T. Krishnamachari:** No. This is about the peak price.

**Mr. Deputy-Speaker:** Therefore, the purchasers cannot complain that they have been waiting for long and now when there is some windfall that is being mopped up by the Government. There is no chance.....

**Shri Karmarkar:** We feel sorry about it, but there is no complaint.

**Shri T. T. Krishnamachari:** They feel sorry about it, but there is no complaint.

**Shri V. B. Gandhi:** The landed cost of imports ranges from Rs. 391 to Rs. 258 and the present internal price is about Rs. 397. So, so far as the dealers are concerned, they are not making any very large profits. The situation in respect of world prices of mercury has changed and today the New York price for forward delivery of mercury is Rs. 850. And that is exactly what is—in a way unexpected—going to help us out of a very bad situation into which our import policy has led the commercial community.

On these considerations, Sir, I have a feeling that we really are not justified in this. Under sub-section (2) of section 4A of the Tariff Act, this House has the power to modify the notification or direct that the notification should cease to have effect. I do not suggest any of these things. I only wish to draw pointed attention to the fact that the present situation has arisen chiefly as a result of these quick-changing import policies, and that there is no fair analogy between this and the situation in respect of jute and groundnut that existed a few years ago. I would maintain that we shall not be right in using section 4A of the Indian Tariff Act for the purpose of this levy.

**Shri Bansal:** Sir, I am sorry I have to join issue on this particular resolution with my friend Mr. Gandhi, because he is a very good friend of mine, and I generally do not want to differ from him on these matters.

**Mr. Deputy-Speaker:** It is the Government alone that is the hon. Member's enemy.

**Shri A. C. Guha:** No, he is supporting the Government, Sir.

**Shri Bansal:** I have just the same type of complaint against the Government, as my friend Mr. Gandhi has, on their import policy. But this is a very wrong instance which my friend has chosen because in this particular instance, in my opinion, the Government have done just the right thing. The course impliedly suggested by my friend would be for Government to put a ban on the import of mercury in the year 1951-52. That would have led to speculation, which in fact was rife in this particular trade and all the stocks would have gone underground and the internal prices would have definitely risen, as really they did to some extent. But when Government announced that they were not going to take away this item from the O.G.L., although they took it out of the general O. G. L. to the soft currency O.G.L., the market was taken by surprise and it is for this reason that imports in the year 1951-52 were so small.

Now, Sir, if the stocks are so high in the country, what is the Government supposed to do? If Government do not allow them to be exported, the money will be lying locked here. Exports are eminently desirable in this case particularly when we imported this quantity from the soft currency area while the demand is partly also from hard currency area. We are exporting mercury today not only to England, Denmark and Japan but also to U.S.A. Therefore we are likely to earn good hard currency. Now, Sir, who should take advantage of the huge difference in the prices? I am sure it should not go to anybody else but to Government. There is one matter, however, which does not redound to the credit of Government. Government while announcing their policy also announced that they will allow the export of mercury flasks to the extent of 10,000. That, in my opinion, was a mistake, because no good businessman tells the buyer that he has so much quantity to sell as that at once brings down the prices and that is actually what happened. I may tell, Sir, from some enquiries that were made by me that after the announcement of our policy, the prices have gone down in U.S.A.; they had gone down by about Rs. 100 per flask. If that is so, our policy was patently mistaken inasmuch as an announcement was made of the quantity to be exported. This also had another effect. The internal prices have slightly risen. Sir, these are, in my opinion, the concomitants of a policy of this type and I do not think much blame goes to Government. But if, after some time, the

Government finds that the prices that the Indian exporters are likely to get in the foreign market are lower than what they get at present then I am sure they will have to reduce this export duty and I would suggest to the hon. Minister that he should keep an open mind on this subject and not hesitate to reduce the duty if the circumstances so require.

5 P.M.

I have one other point to make in this connection and that is about the Information Department both within our country and in foreign countries. Our Information Department, although they are very good in giving out information, I understand, are not so good in supplying information to the Government of India in time, with the result that more often than not we are late in taking the requisite and desired action. This happened on a number of occasions in the past. I refer to the lamentable history of our jute exports. Some enlightened businessmen and organisations were suggesting to the Government for quite a long time past that the time had come when they should impose an export duty on hessian and jute goods. But the Government took months to come to a decision on that question with the result that crores of rupees went away from the hands of Government. A similar thing happened but not exactly on the same line, in regard to the imports of silk piece-goods. Sir, there was a time when imports of silk piece-goods were allowed freely with the result that huge quantities of silk piece-goods were imported. Later on, the merchants who had imported them began to clamour that the quantity in the country was out of all proportion to the local requirements and Government put a ban on the import of silk piece-goods. This kind of vacillating import policy to which a reference was made by my hon. friend is one to which everybody would object and I am sure the Government of India are now beginning to realise that they should have a more stable import policy. My concrete suggestion is that once a commodity is placed on the O.G.L., it should never be placed on the restricted list again because after all the demand and supply position inside the country will make the merchants wary, and they will not import that commodity in quantities which will no longer be required in the country. After all the inducement for the importer to import these commodities is the belief that when the O.G.L. is in operation he may import huge quantities and later on Government may be persuaded to place those commodities

on the restricted list again and that enables the speculators to speculate on the commodities involved. Unfortunately, Government in their recent announcement of the import policy have taken a decision in regard to certain commodities which would not be very helpful towards this policy. I would suggest to the hon. Minister that in future our import policy should be more stable and it should not be jerky

and "jumpy" as it has been in the past.

In the end, Sir, I am informed that the procedure followed by Government in allowing export licences is somewhat defective and I am sure the hon. Minister would look into this matter also.

*The House then adjourned till a Quarter to Eleven of the Clock on Thursday, the 13th November, 1952.*