

Thursday,  
9th December, 1954

# LOK SABHA DEBATES

VOLUME IX, 1954

(6th to 24th December 1954)



सत्यमेव जयते



EIGHTH SESSION, 1954

LOK SABHA SECRETARIAT  
NEW DELHI

## CONTENTS

(Vol. IX, Nos 16—32—6th to 24th December, 1954)	<i>Columns.</i>
<i>No. 16—Monday, 6th December, 1954—</i>	
Death of Shri Girja Shankar Bajpai	1917—18
Motion for adjournment—	
Bank employees' strike	1918—25
Messages from the Rajya Sabha	1925—26
Code of Criminal Procedure (Amendment) Bill—Petition received	1926
Correction of answer to supplementary question on Starred Question No. 1468	1926—27
Committee on Absence of Members from the Sittings of the House—	
Sixth Report—Adopted	1927—29
Code of Criminal Procedure (Amendment) Bill—	
Consideration of clauses—Not concluded	1929—2042
Clauses 66 to 80	1931—41
Clauses 81 to 88	1941—86
Clauses 89 to 96 and 98 to 102	1986—2042
<i>17—Tuesday, 7th December, 1954—</i>	
Business of the House—	
Order of Government Business for the remaining part of the Session	2043—44
Code of Criminal Procedure (Amendment) Bill—	
Consideration of clauses—Concluded	2044—2156
Clause 22	2044—59
Clauses 89 to 96 and 98 to 102 and New Clause 93A	2059—2114
Clauses 103 to 113 and 115, 116, the Schedule, New Clause 115A and Clauses 1 & 2.	2114—56
Motion to pass—as amended—Not concluded	2156—58
Dr. Katju	2156
Shri Datar	2156—57
<i>18—Wednesday, 8th December, 1954—</i>	
Papers laid on the Table—	
Statistical information re: Preventive Detention Act	2159
Declarations of exemption under Registration of Foreigners Act	2159—60
Report of Rehabilitation Finance Administration	2161
Preventive Detention (Amendment) Bill—	
Petition presented	2161
Committee on Private Members' Bills and Resolutions—Seventeenth Report presented	2161
Message from President of Grand National Assembly of Turkey	2161—62
Code of Criminal Procedure (Amendment) Bill—Passed as amended	2162—2232
Shri M. A. Ayyangar	2162—71
Shri A. M. Thomas	2171—77
Shri H. N. Mukerjee	2177—86
Shri S. S. More	2186—90
Shri Datar	2190—98
Pandit Jankur Das Bhargava	2198—2209
Shri N. C. Chatterjee	2209—14
Shri R. D. Mitra	2214—20
Dr. Katju	2221—32

	<i>Columns.</i>
Hindu Minority and Guardianship Bill—	
Motion to nominate Members to Joint Committee— Not concluded	2232—76
Shri Pataskar	2231—41
Shri V. G. Deshpande	2243—57
Shri Tek Chand.	2257—64
Shri B. C. Das	2264—71
Shrimati Jayashri	2272—73
Shri D. C. Sharma	2273—76
<i>No. 19—Thursday, 9th December, 1954—</i>	
Motion for Adjournment—	
Violation of Indian Territory by armed Portuguese soldiers and kidnaping an Indian villager	2277—79
Indian Tariff (Third Amendment) Bill—Introduced	2279
Hindu Minority and Guardianship Bill—	
Motion to nominate Members to Joint Committee—Adopted	2280—2360
Shri D. C. Sharma	2280—84
Shrimati Sucheta Kripalani	2284—92
Shri N. C. Charterjee	2292—2310
Shri Bogawat	2311—18
Pandit Thakur Das Bhargava	2318—34
Shri P. Subba Rao	2334—43
Shrimati Uma Nehru	2344—46
Sardar Iqbal Singh	2346—48
Shri Paraskar	2348—59
Preventive Detention (Amendment) Bill—	
Motion to consider— Not concluded	2360—2408
Dr. Katju.	2360—93
Shri A. K. Gopalan	2399
Shri Deshpande	2399
Shri T. K. Chaudhuri	2399
Shri M. S. Gurupadaswamy	2402—08
<i>No. 20—Friday, 10th December, 1954—</i>	
Paper laid on the Table—	
Notification under Sea Customs Act	2409
Preventive Detention (Amendment) Bill—	
Motion to consider—Not concluded	2409—74
Shri A. K. Gopalan	2410—27
Shri G. H. Deshpande	2427—35
Shri Veeraswamy	2435—39
Shri Asoka Mehta	2439—51
Shri M. P. Mishra	2451—57
Shri V. G. Deshpande	2458—66
Shri Tek Chand	2466—69
Shri N. M. Lingam	2469—74
Committee on Private Members' Bills and Resolutions—	
Fifteenth Report—Adopted	2474—75
Seventeenth Report—Adopted	2475
Code of Criminal Procedure (Amendment) Bill ( <i>Insertion of new Section 109A</i> )—	
Introduced	2476
Army (Amendment) Bill ( <i>Insertion of new Section 142A</i> )—Introduced	2476
Prohibition of Manufacture and Sale of Vanaspati Bill—Motion to consider— Negatived	2476—91

	Columns.
Shri Dabhi . . . . .	2477—79
Dr. P.S. Deshmukh . . . . .	2479—90
<b>Indian Arms (Amendment) Bill (Amendment of Sections 1 and 26 etc.)—</b>	
Motion to refer to Select Committee—Adjourned <i>sine die</i>	2492—2513
Shri U. C. Parnaik . . . . .	2492—2502
Dr. Karju . . . . .	2503
Shrimati Ila Palchoudhury . . . . .	2504—05
Th. Lakshman Singh Charak . . . . .	2505—09
Shri Kanavade Patil . . . . .	2509—12
<b>Women's and Children's Institutions Licensing Bill—</b>	
Motion to consider—Not concluded . . . . .	2513—34
Shrimati Uma Nehru . . . . .	2513—14
Shri Pataskar . . . . .	2515—17
Shrimati Sushama Sen . . . . .	2517, 2520—21
Shrimati Jayashri . . . . .	2517—18
Shrimati A. Kale . . . . .	2518—19
Shrimati Maydeo . . . . .	2519—20
Shri Keshavaiengar . . . . .	2521—22
Shrimati Ila Palchoudhury . . . . .	2522—23
Shri D. C. Sharma . . . . .	2523—27
Shri T. S. A. Chettiar . . . . .	2527—31
Shri Dhulekar . . . . .	2531—34
<b>Electricity Supply (Amendment) Bill (Amendment of Section 77 etc.)—Introduced</b>	2534
<b>No. 21—Saturday, 11th December, 1954—</b>	
Motion for Adjournment—	
Retrenchment of Sepoy clerks of Army Ordnance Corps . . . . .	2535—38
<b>Business of the House—</b>	
Allocation of time for Resolution re: Report of Railway Convention Committee . . . . .	2538—39
<b>Preventive Detention (Amendment) Bill—</b>	
Motion to consider—Not concluded . . . . .	2539—2676
Shri N. M. Lingam . . . . .	2539—44
Shri N. C. Chatterjee . . . . .	2544—60
Shri Ramachandra Reddi . . . . .	2560—64
Shri Keshavaiengar . . . . .	2564—70
Shrimati A. Kale . . . . .	2570—73
Shrimati Renu Chakravartty . . . . .	2573—82
Shri Kasliwal . . . . .	2582—85
Shri Bhagwat Jha Azad . . . . .	2585—91
Dr. N. B. Khare . . . . .	2591—98
Shri Datar . . . . .	2598—2610
Dr. Krishnaswami . . . . .	2610—19
Shri Chattopadhyaya . . . . .	2619—24
Shri C. R. Narasimhan . . . . .	2624—26
Shri Mulchand Dube . . . . .	2626—30
Pandit K. C. Sharma . . . . .	2630—36
Shri Raghavachari . . . . .	2636—42
Kumari Annie Mascarene . . . . .	2642—49
Shri R. C. Sharma . . . . .	2649—56
Shri Sarangadhar Das . . . . .	2656—63
Pandit Thakur Das Bhargava . . . . .	2663—76
Shri H. N. Mukerjee . . . . .	2676



No. 22—Monday, 13th December, 1954—

Columns.

Motions for adjournment—	
Retrenchment of sepoy clerks of Army Ordnance Corps	2677—79
Tragedy in Newton Chikhi Colliery	2679—83
Alleged firing on election procession in Andhra	2683—85
Papers laid on the Table—	
Air Corporation Rules	2685
Audit Report on Industrial Finance Corporation	2685
Demands for Supplementary Grants for 1954-55—	
Laid on the Table	2685
Demands for Supplementary Grants for 1954-55—Andhra—	
Laid on the Table	2686
Alleged association of Minister with a Bank	2686—92
Preventive Detention (Amendment) Bill—	
Motion to consider—Adopted	2692—2750
Shri H. N. Mukerjee	2693—2706
Dr. S. N. Sinha	2707—14
Th. Lakshman Singh Charak	2714—
Shrimani Tarkeshwari Sinha	2720—27
Acharya Kripalani	2727—34
Dr. Katju	2734—47
Clauses 1 and 2	2749—88
Motion to pass—Adopted	2789—2802
Dr. Katju	2789
Shri Nand Lal Sharma	2789—94
Shri Lakshminayya	2794—97
Shri Punnoose	2798—2802

No. 23—Tuesday, 14th December, 1954—

Papers laid on the Table—	
Appropriation Accounts of the Defence Services, 1952-53	2803
Commercial Appendix to the Appropriation Accounts of the Defence Services, 1952-53	2803
Audit Report, Defence Services, 1954	2803
Correction of answer to Starred Question No. 862	2804
Business of the House—	
Statement re order of Government business	2804—05
Tea (Second Amendment) Bill—Motion to consider—Adopted	2805—30
Shri T. T. Krishnamachari	2805-07, 2826-30
Shri Tusbar Chatterjee	2807—12
Shri N. M. Lingam	2812—14
Shri Barman	2814—16
Shri K. P. Tripathi	2816—20
Shri A. M. Thomas	2820—22
Shri Ramachandra Reddi	2822—23
Shri Damodara Menon	2824—2
Shri K. C. Soodha	2825—
Shri Punnoose	28
Clauses 1 and 2	2830—
Motion to pass, as amended—Adopted	2831—
Shri T. T. Krishnamachari	28

	<i>Columns.</i>
<b>Indian Tariff (Third Amendment) Bill—</b>	
Motion to consider—Adopted . . . . .	2832—67
Shri Kanungo . . . . .	2832—36, 2861—67
Shri V. P. Nayar . . . . .	2836—43
Shri Tulsidas . . . . .	2843—46
Dr. Lanka Sundaram . . . . .	2846—50
Shri Jhunjhunwala . . . . .	2850—52
Shri A. M. Thomas . . . . .	2852—57
Shri Kasliwal . . . . .	2857—59
Shri V. B. Gandhi . . . . .	2859—61
Clauses 1 and 2 . . . . .	2867—68
Motion to pass—Adopted . . . . .	2868—74
Shri Kanungo . . . . .	2868—69
Dr. Lanka Sundaram . . . . .	2869
Shri T. T. Krishnamachari . . . . .	2869—74
<b>Industrial Disputes (Amendment) Bill—Motion to consider—Adopted</b>	2875—2900
Shri Khandu bhai Desai . . . . .	2875—76, 2897—2900
Shri Amjad Ali . . . . .	2876—78
Shri Bimlaprosad Chaliha . . . . .	2878—80
Shri Punnoose . . . . .	288—84
Shri B. S. Murthy . . . . .	288—86
Shri Velayudhan . . . . .	2886—88
Shri Keshavalengar . . . . .	2888
Shri P. C. Bose . . . . .	2888—89
Shri K. P. Tripathi . . . . .	2889—93
Shri S. V. Ramaswamy . . . . .	2893—96
Th. Jugol Kishore Sinha . . . . .	2896—97
Clauses 1 to 3 . . . . .	2900—02
Motion to pass—Adopted . . . . .	2902
Shri Khandu bhai Desai . . . . .	2902
<b>No. 24—Wednesday, 15th December, 1954—</b>	
Motions for adjournment—	
Alleged firing on election procession in Andhra . . . . .	2903—07
Hunger strike of policemen in West Bengal and calling in of military Papers laid on the Table— . . . . .	2907—11
President's Acts <i>re</i> : Andhra . . . . .	2911—12
Statements showing action taken by Government on assurances etc. . . . .	2912—13
Notification under Central Excises and Salt Act . . . . .	2913
Balance-sheets and Audit Reports of Delhi Road Transport Authority . . . . .	2913
Committee on Private Members' Bills and Resolutions—	
Eighteenth Report—presented . . . . .	2913
Business of the House—	
Order of Government Business . . . . .	2914—15
Calling attention to matter of Urgent Public importance— . . . . .	2915—16
Ban on export of tapioca starch and flour . . . . .	2916—3028
Resolution <i>re</i> : Report of Railway Convention Committee—Not concluded . . . . .	2916—3028
Prevention of Disqualification (Parliament and Part C States Legislatures) Second Amendment Bill—Introduced . . . . .	3028
<b>No. 25—Thursday, 16th December, 1954—</b>	
Death of Shri Jwala Prasad Srivastava . . . . .	—

Delimitation Commission (Amendment) Bill—Introduced . . . . .	3031
Resolution <i>re.</i> Report of the Railway Convention Committee—Adopted . . . . .	3031—68
Demands for Supplementary Grants for 1954-55— . . . . .	3068—3152
Not concluded . . . . .	

## No. 26—Friday, 17th December, 1954—

Motion for adjournment—	
Hunger strike of policemen in West Bengal and calling in of military . . . . .	3153—58
Papers laid on the Table—	
Amendments to Mineral Concession Rules . . . . .	3158
Demands for Supplementary Grants for 1954-55. . . . .	3159—3193, 3215—22
Demands for Supplementary Grants for 1954-55—Andhra . . . . .	3193—3214
Appropriation (No. 4) Bill—Introduced and Passed . . . . .	3220—21
Committee on Private Members' Bills and Resolutions—Eighteenth Report—Adopted . . . . .	3222
Resolution <i>re.</i> statutory Body to control and supervise Government Industrial Undertakings—Negated . . . . .	3222—71
Resolution <i>re.</i> Department of Welfare for Scheduled Castes and Scheduled Tribes—	
Not concluded . . . . .	3271—80

## No. 27—Saturday the 18th December, 1954—

Resignation of Shrimati Vijaya Lakshmi . . . . .	3281
Resolution <i>re.</i> Removal of Speaker—Negated . . . . .	3281—3309, 3398—3456
Demands for Supplementary Grants for 1954-55—Andhra . . . . .	3309—33, 3378—82
Delimitation Commission (Amendment) Bill—Referred to Select Committee . . . . .	3333—78
Shri Pataskar . . . . .	3333—45, 3374—75
Shri Barman . . . . .	3345—53
Shri R. D. Misra . . . . .	3354—55, 3365—74
Pandit Munishwar Datt Upadhyay . . . . .	3355—56, 3359—65
Andhra Appropriation Bill—Introduced and passed . . . . .	3382—83
Prevention of Disqualification (Parliament and Part C States Legislatures) Second Amendment Bill—Motion to consider—Adopted. . . . .	3383—92
Shri Panskar . . . . .	3381—86
Shri Dhulekar . . . . .	3387—88
Shri R. K. Chaudhri . . . . .	3389—90
andit Thakur Das Bhargava . . . . .	3390—92
Clauses 1 and 2 . . . . .	3392—94
Shri Panskar . . . . .	
Motion to pass—Adopted . . . . .	3394
Tea (Amendment) Bill as passed by the Rajya Sabha—Motion to consider—	
Adopted. . . . .	3394—96
Shri Kamarkar . . . . .	3394—95
Shri A.M. Thomas . . . . .	3395
Shri N.M. Lingam . . . . .	3395—96
Clauses 1 and 2 . . . . .	3396—97
Motion to pass an amended—Adopted. . . . .	3397
University Grants Commission Bill—	
Motion to refer to Joint Committee—Not considered . . . . .	3397—98
Dr. M. M. Das . . . . .	3397—98

<i>No. 28—Monday, 20th December, 1954—</i>	<i>Columns.</i>
Motion for adjournment—	
Violation of Indian territory by armed Portuguese soldiers . . . . .	3457—59
Statement <i>re</i> Hunger strike by policemen in West Bengal . . . . .	3459—61
Papers laid on the Table—	
Appropriation Accounts (P & T) 1952-53 and Audit Report 1954 . . . . .	3461
Constitution (Fourth Amendment) Bill—Introduced. . . . .	3461
Suppression of Immoral Traffic in Women and Girls Bill—Introduced . . . . .	3462
Motion <i>re</i> Economic Situation—Not concluded . . . . .	3463—3576
 <i>No. 29—Tuesday, the 21st December, 1954—</i>	
Statement <i>re</i> : Orders for Jeeps and other Defence Stores placed abroad . . . . .	3577—78
Business of the House . . . . .	3578—80
Calling attention to matter of Urgent public importance—	
Speculative activity in Tea Export rights . . . . .	3580—82
Motion <i>re</i> : Economic situation—Adopted, as amended . . . . .	3583—3693
Messages from the Rajya Sabha . . . . .	3693—94
 <i>No. 30—Wednesday, 22nd December, 1954—</i>	
Papers laid on the Table—	
Statement <i>re</i> : recommendations of Press Commission . . . . .	3695
Notifications under Sea Customs Act . . . . .	3695
Evidence on Untouchability (Offences) Bill . . . . .	3695
Committee on Absence of Members from the sittings of the House—	
Seventh Report—Presented . . . . .	3696
Committee on Private Members' Bills and Resolutions—	
Nineteenth Report—Presented . . . . .	3696
Estimates Committee—	
Minutes Vol. 3—Presented . . . . .	3696
Motion <i>re</i> : Progress Report of Five Year Plan for 1953-54—Not concluded . . . . .	3696—3788, 3788—3825
Delimitation Commission (Amendment) Bill—	
Report of Select Committee—Presented . . . . .	3788
Message from the Rajya Sabha . . . . .	3826
 <i>No. 31 Thursday, the 23rd December, 1954—</i>	
Motion for adjournment—	
Arrest of M.P. and Police raid on Praja-Socialist Party office at Imphal . . . . .	3827—3
Joint Statement by President of Federal People's Republic of Yugoslavia and Prime Minister of India . . . . .	3832—3
Papers laid on the Table—	
Statement showing action taken by Government on various assurances etc. . . . .	3836
Statement on action taken on Recommendations of 36th Session of International Labour Conference held in June 1953 . . . . .	3836
Statement <i>re</i> : ratification of Convention No. 26 concerning Minimum Wage fix- ing machinery. . . . .	3836
Amendments in Reserve and Auxiliary Air Forces Act Rules, 1953 . . . . .	3837
Calling attention to matter of urgent public importance—	
Supply of news to private enterprise by P.T.I. and U.P.I. . . . .	3837—40
Committee on Absence of Members from sittings of the House—Seventh Report—	
Adopted . . . . .	3841—44
Appointment of Members to Joint Committee on Economic Bill . . . . .	3844—45

## Delimitation Commission (Amendment) Bill—

Motion to consider as reported by the Select Committee —Adopted . . . . .	3845—3900
Shri Pawaskar . . . . .	3645—51, 3891—3900
Shri N. M. Lingam . . . . .	3853—56
Shri B.S. Murthy . . . . .	3856—59
Shri Raghavachari . . . . .	3860—62
Shri Sadhan Gupta . . . . .	3862—65
Shri T. N. Singh . . . . .	3866—70
Shri Bhagwat Jha Azad . . . . .	3870—72
Shri Jangde . . . . .	3872—75
Shri M. L. Agrawal . . . . .	3875—78
Shri Kasliwal . . . . .	3878—79
Pandit Munishwar Datt Upadhyay . . . . .	3879—83
Shri Kajrolkar . . . . .	3883—84
Shri Naval Prabhakar . . . . .	3885—87
Shri Kakkani . . . . .	3887—89
Shri P. L. Barupal . . . . .	3889—90
Shri Ganpat Ram . . . . .	3890—91
Clauses 1 and 2 . . . . .	3900—12
Motion to pass—Adopted . . . . .	3912
Motion re: Progress Report of Five Year Plan for 1953-54—Not concluded . . . . .	3912—82
Arrest of Shri Rishang Keishing . . . . .	3983
Messages from the Rajya Sabha . . . . .	3983—84

No. 32—Friday, 24th December, 1954—

	Columns
Calling attention to <del>matter of urgent public importance</del> Opium cultivation in Madhya Bharat and Rajasthan	3985—87
<b>Papers laid on the Table—</b>	
Appropriation Accounts of Railways in India for 1952-53, Part I—Review	3987
Appropriation Accounts of Railways in India for 1952-53, Part II—Detailed Appropriation Accounts	3987
Block Accounts (including Capital Statements comprising the Loan Accounts), Balance Sheets and Profit and Loss Accounts of Indian Government Railways, 1952-53	3987
Balance Sheets and Review of working of Railway Collieries and Statements of all-in-cost of coal, etc., for 1952-53	3987
Audit Report, Railways, 1954	3987
Statement re: decisions of second meeting of Central Flood Control Board	3988
Correction of answers to Starred Questions Nos. 876 and 1265	3988—89
Securities Contracts (Regulation) Bill—Introduced	3989—90
Motion re: Progress Report of Five Year Plan for 1953-54— Adopted as amended	3990—4012
Motion re Report of Commissioner for Scheduled Castes and Scheduled Tribes	4013—69
—Not concluded	
<b>Committee on Private Members' Bills and Resolutions—</b>	
Nineteenth Report—debate adjourned	4069—75
Indian Penal Code (Amendment) Bill ( <del>Amendment of Section 497</del> )—Introduced	4075
Indian Converts (Regulation and Registration) Bill— Introduced.	4075—83
<b>Women's and Children's Institutions Licensing Bill—</b>	
Motion to consider—Not concluded	4084—93
Shri Dhulekar	4084—88
Shri Patilkar	4088—93
Shrinani Uma Nehru	4093
Shri Tek Chand	4093
Debate adjourned	4093
<b>Indian Penal Code (Amendment) Bill (Insertion of new section 294 B)—</b>	
Motion to circulate—Not concluded	4094—98
Shri Nagabharwar Parsad Sinha	4094—96, 4097—98
Dr. Karju	4096—97
Debate adjourned	4098
<b>Payment of Wages (Amendment) Bill—</b>	
Motion to consider—Not concluded	4098—4100
Dr. N. B. Khare	4098, 4099—4100
Shri Chandubhal Desai	4098—99
Debate adjourned	4100
<b>Indian Medical Council (Amendment) Bill—</b>	
Motion to refer to Select Committee—Not concluded	4100—4117
Sardar A. S. Saigal	4100—12, 4115—16, 4117
Rajkumari Amrit Kaur	4113—1
Debate adjourned	4117

	Columns
<b>Prevention of Free, Forced or Compulsory Labour Bill—</b>	
Motion to circulate—Not concluded . . . . .	4117—28
Shri D. C. Sharma . . . . .	4117—26
Shri R. K. Chaudhuri . . . . .	4127—38
<b>Messages from the Rajya Sabha . . . . .</b>	4129—30
<b>Hindu Marriage Bill—</b>	
Laid on the Table as passed by Rajya Sabha . . . . .	4130

**LOK SABHA DEBATES** Dated..... 02.12.2014  
(Part I—Questions and Answers)

1185

**LOK SABHA**

Thursday, 9th December, 1954

The Lok Sabha met at Eleven of  
the Clock

[MR. SPEAKER in the Chair]

**ORAL ANSWERS TO QUESTIONS**

**टेकनालाजी की प्रादेशिक संस्थायें**

\*१३८. श्री एन० एल० द्विवेदी : क्या खाजिण्डा तथा उद्योग मंत्री १३ सितम्बर, १९५४ को पूछे गये तारांकित प्रश्न संख्या ८३३ के उत्तर के सम्बन्ध में यह बताने की कृपा करेंगे कि टेकनालाजी की चारों प्रादेशिक संस्थायें कब से कार्य करना आरम्भ करेगी ?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** A Director has been appointed to each Institute and a nucleus staff of officers has also been sanctioned. The Directors are now engaged in preparing the programme of work for each Institute in consultation with the State Governments.

**Shri M. L. Dwivedi:** May I know whether the institutes at all the four places have been established, and if so, what progress has been made?

**Shri Kanungo:** As I have already replied, the nucleus staff has been recruited. The buildings and other things have not yet been completed.

**Shri M. L. Dwivedi:** What is the estimated cost of this scheme?

552 LSD.

1186

**Shri Kanungo:** A sum of Rs. 135 lakhs has been proposed in the revised estimate for the current financial year for the development of small-scale industries.

**Shri M. L. Dwivedi:** What are the small-scale industries that are under consideration for research work?

**Shri Kanungo:** It is not research. These are institutes which will undertake research in various small-scale industries. To start with they have just two industries to work on, i.e., cycle parts and leather.

**Shri T. S. A. Chettiar:** What are the places at which these four institutes are going to be situated?

**Shri Kanungo:** One in Madurai, one in Calcutta, one in Bombay or Poona and one in Faridabad.

**Mr. Speaker:** Shri S. N. Das. Absent.

**Dr. Ram Subhag Singh:** Sir, Question No. 939 is an important question and should be replied to.

**Mr. Speaker:** I am going to the next Question. We will take it up later on if the hon. Member comes.

**MONAZITE**

\*940. **Sardar Hukam Singh:** Will the Prime Minister be pleased to state:

(a) whether the Indian Rare Earths and Monazite Plant Limited at Alwaye have been able by now to reduce the production cost so as to enable the plant to produce rare earth chlorides for the world market at competitive rates; and

(b) the quantity of monazite that was treated there during the last 12 months?



**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru):** (a) Rare Earth Chlorides and Carbonates have been produced at competitive rates from the beginning. The production cost has been gradually reduced since then.

(b) It is not in the public interest to divulge the exact figure. It is in several hundreds of tons.

**Sardar Hukam Singh:** May I know whether we were able to export some of these chlorides in the last twelve months and sell them in foreign market?

**Shri Jawaharlal Nehru:** They are being sold, that is, by arrangement with countries, not in the open market. We come to terms with a country and give it in exchange for something else.

**Sardar Hukam Singh:** Could I know the quantity of monazite exported last year?

**Shri Jawaharlal Nehru:** That is what I have said. I would rather not say that, but this runs into some hundreds of tons.

**Dr. Ram Subhag Singh:** May I know by what percentage the production cost has been reduced?

**Shri Jawaharlal Nehru:** I cannot say, but whatever it is, it finds a very easy market; it is below the normal rate. It is not a high rate, and it is being gradually reduced. To begin with it is not much, it is very competitive.

#### STEEL PLANT

**\*941. Pandit Munishwar Datt Upadhyay:** Will the Minister of Production be pleased to state:

(a) whether Russian experts have surveyed the likely places and expressed any opinion regarding the suitability or otherwise of the places suggested for the establishment of a Second Steel Plant;

(b) whether Government have decided upon the location of the plant;

(c) the main considerations according to the Russian experts which should determine the location of the steel plant; and

(d) whether this plant is likely to be installed earlier than the one proposed to be set up in Orissa?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):**

(a) The team of Soviet experts are examining all the relevant data as to the possible sites for location of a new Steel Plant. The team is now on a tour to several places in the country in this connection. The experts have not yet expressed any opinion.

(b) No.

(c) The consideration which will weigh with the experts will be known at about the time when they will be making their recommendation regarding the location of the Plant.

(d) Sufficient data is not available with Government for venturing a forecast on these lines.

**Pandit Munishwar Datt Upadhyay:** What is the difference between the amounts to be invested in the two plants?

**Sardar Swaran Singh:** So far as the steel plant the possibility of establishing which is now being explored is concerned, it is still in a preliminary stage and it is too early to say the relative costs.

**Pandit Munishwar Datt Upadhyay:** Is there any estimate?

**Sardar Swaran Singh:** I will not make any guess of an estimate which is of a conjectural nature.

**सेठ गोविन्द दास :** क्या यह बात सही नहीं है कि ज ' पहला प्लांट उड़ीसा में स्थापित करने का निर्णय किया गया था उस वक्त मध्य प्रदेश सरकार ने जो चीजें केन्द्रीय सरकार के सामने पेश कीं उनके आधार पर यह करी करी निश्चित हो गया था कि दूसरा प्लांट मध्य प्रदेश में स्थापित किया जायेगा ?

सरदार स्वर्ण सिंह : अ. दोबारा इस सारे मामले पर विचार हो रहा है और इस विचार के बाद जो जगह ज्यादा मौजूद समझी जायेगी वहां यह नया प्लांट लगाया जायेगा।

#### CASHEWNUTS

\*942. **Shri V. P. Nayar:** Will the Minister of Commerce and Industry be pleased to refer to the reply given to unstarred question No. 2 on the 23rd August, 1954 and state:

(a) the percentage of raw cashew-nuts imported by established importers and by processors separately; and

(b) whether Government have taken any steps to find out the percentage of profits made on imports of raw nuts by established importers?

**The Minister of Commerce (Shri Karmarkar):** (a) The information about actual imports made by established importers and processors separately is not available. The information is being collected and will be laid on the Table of the House.

(b) Government has been endeavouring to collect this information; but as the nuts are collected in Portuguese East Africa by the agents of the importers in India and there is no fixed price for the nuts in Portuguese East Africa, the profit on imports cannot be easily determined. Government is, however, looking into the matter further.

**Shri V. P. Nayar:** The hon. Minister said that the information about the break-up of figures of import are being collected. May I know whether Government are aware that owing to the monopoly of three or four exporters at Bombay, the price of cashewnuts varies to such an extent that in the first half of 1954, as admitted by the Minister in answer to another question, only 25,000 people were working in the industry which was capable of normally having about 80 to 90 thousand workers?

**Shri Karmarkar:** The Question, Sir, is mixed up. It is a fact that a complaint was brought to us that the importers were not playing fair with the processors in respect of prices.

**Shri V. P. Nayar:** May I know whether Government have taken any steps to assure that the importers take only the minimum profit in order that the industry may go on with provision for work for about 90,000 people?

**Shri Karmarkar:** What we did was quite in accordance with the suggestion made by the processors themselves. We gave them permission to import 50 per cent. of the total imports, but it appears that they have not availed themselves of that privilege to the best extent possible.

**Shri V. P. Nayar:** Do Government know that as between the processors and importers, the chances of competition for the processors are very little as the importers are backed by immense capital and also a long term trade with the African countries?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** I am afraid the presumption is not quite correct. In fact, it has been brought to my notice that this spiral increase in prices is due to the fact that one of the processors really was raising the price so as to shut out the smaller processors. There are complexities in the situation which is rather difficult for us to unravel and it is very difficult to apportion blame thereof therefore.

**Shri V. P. Nayar:** May I know whether Government are aware that on account of the price manipulations of importers, the processors who take raw cashewnuts from home-grown nuts are able to give only a very, very low price and that thousands of growers are affected by this price manipulation of Bombay firms?

**Shri T. T. Krishnamachari:** I am afraid it does not really follow. Actually, if there is a price manipulation of the imported nut and prices go up, naturally the home-growers

also must get a higher price, but it happens in this case that no single party is entirely to blame. The blame, I am afraid, has to be apportioned on all fronts.

#### KOREAN PRISONERS OF WAR

\*943. **Shri D. C. Sharma:** Will the Prime Minister be pleased to state:

(a) how many of the Korean prisoners of war who were brought to India have finally expressed their desire to settle in India; and

(b) how many of them have acquired the rights of Indian citizenship?

**The Deputy Minister of External Affairs (Shri Anil K. Chanda):** (a) The number of those who want to settle in India is frequently changing. Their number has now increased to 38.

(b) None. Under the law as it stands at present it is not possible to grant Indian citizenship to these ex-prisoners.

**Shri D. C. Sharma:** To what countries do these Korean prisoners of war belong?

**Shri Anil K. Chanda:** There are 74 from North Korea, 2 from South Korea and 12 are Chinese.

**Shri D. C. Sharma:** May I know if any attempt is being made to train them for any gainful profession in India?

**Shri Anil K. Chanda:** Yes. Those who are to settle in India are being given training at various centres—Secunderabad, Jubalpur, Bangalore and Delhi.

#### STATES FLOOD CONTROL BOARDS

\*944. **Th. Lakshman Singh Charak:** Will the Minister of Irrigation and Power be pleased to state:

(a) the names of the States where Flood Control Boards have been set up; and

(b) whether they have submitted any preliminary reports to the respective State Governments as also to the Central Government?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) Assam, Bihar, Uttar Pradesh, Pepsu, Punjab, West Bengal and Jammu and Kashmir.

(b) Preliminary reports have been submitted to the State Governments and some of these reports have been received by the Central Government.

**Th. Lakshman Singh Charak:** May I know what is the decision on the programmes of the Flood Control Board of Jammu and Kashmir that is taken and how long will it take to implement it?

**Shri Hathi:** So far as the Jammu and Kashmir State projects are concerned, they have not been finalised yet.

**Shri B. K. Das:** May I know whether any short-term or long-term plans have been finalised regarding the States which have submitted these reports?

**Shri Hathi:** So far as Uttar Pradesh, Bihar, West Bengal and Assam are concerned, short-term or immediate protection relief works have been undertaken. Estimates have been submitted by these States; they have been examined and those works will start for these States.

**Shri B. K. Das:** May I have an idea as to the short-term plan finalised about the State of West Bengal?

**Shri Hathi:** So far as West Bengal is concerned, it is protection of the 5 towns of Siliguri, Jalpaiguri, Alipur Duars, Cooch-Bihar and Mathabhangha, at a cost of Rs. 350 lakhs.

**Shri Sarangadhar Das:** May I know the reasons why no Board has been formed for Orissa?

**The Minister of Planning and Irrigation and Power (Shri Nanda):** All the States were informed that Boards would be formed for the purpose of flood control and protection. Wherever a State felt that there was need for the formation of such a Board, it was told that it might do so.

**Shri T. S. A. Chettiar:** I take it that these Boards have been formed only in those States where floods have been creating havoc. May I know whether Government are collecting data in those States where flood water is going waste and where it can be profitably utilised?

**Shri Hathi:** The idea of forming all these Control Boards is mainly to provide protection against floods, and for that purpose Government have established three circles in different parts of the country. They will be concerned mainly with protection against floods.

#### STORES PURCHASE COMMITTEE

\*945. **Shri Dabhi:** Will the Minister of Works, Housing and Supply be pleased to refer to the reply given to Starred Question No. 823 on the 13th September, 1954 and state:

(a) whether Government have received the final Report of the Stores Purchase Committee; and

(b) if so, what decision has been taken on the various recommendations of this Committee?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** (a) and (b). The Final Report of the Stores Purchase Committee has not yet been received.

**Shri Dabhi:** When is it likely to be received?

**Sardar Swaran Singh:** By about the end of January next.

**Shri T. B. Vittal Rao:** May I know whether any of the recommendations made by this Committee in their interim report have been accepted and implemented?

**Sardar Swaran Singh:** Yes, some of them have been accepted.

**Shri Gidwani:** What are those recommendations?

**Sardar Swaran Singh:** I require notice.

#### FLOOD CONTROL

\*947. **Shri Bibhuti Mishra:** Will the Minister of Irrigation and Power be pleased to state:

(a) whether Government propose to make united efforts in collaboration with all the Himalayan countries such as Nepal, Tibet and Sikkim for checking the recurrence of floods in Northern India, Nepal, Tibet and Sikkim; and

(b) if so, whether any steps have been taken in this respect so far?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) Yes, Sir.

(b) Negotiations have been started.

**श्री बिभूति मिश्र :** क्या बाढ़ रोकने में सरकार को सिक्किम, नेपाल और तिब्बत का सहयोग प्राप्त हो रहा है।

**Shri Hathi:** So far as Nepal is concerned, we have already a Co-ordination Board for the Kosi where there is full co-operation from Nepal. With regard to others, we are negotiating.

**श्री बिभूति मिश्र :** हिमालय से केवल कोसी ही नहीं निकलती है बल्कि गंडक आदि और भी बहुत सी नदियाँ निकलती हैं। क्या उन साँ नदियों का सर्वे कराने में सरकार उनका सहयोग प्राप्त कर रही है ?

**Shri Hathi:** We expect co-operation from Nepal.

**श्री बिभूति मिश्र :** यह काम कब तक हो जायेगा ?

**Shri Hathi:** That is a matter which will take some time. Even the Prime Minister of Nepal himself has suggested recently that there should be co-ordination between India and Nepal on this basis.

#### SLUM CLEARANCE

\*948. **Shri Gidwani:** Will the Minister of Works, Housing and Supply be pleased to refer to the reply given to

starred question No. 1178 on the 21st September, 1954 and state:

(a) whether the scheme for clearing the slums of the industrial areas has been finalised;

(b) if so, the nature of the scheme; and

(c) when it will be implemented?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):**

(a) Not yet, sir.

(b) and (c). Do not arise.

**Shri Gidwani:** In view of the fact that the Prime Minister has been repeatedly stating that the slums should be burnt, when will the Government completely carry out this scheme?

**Sardar Swaran Singh:** They are still there; they have not yet been burnt.

**Some Hon. Members rose—**

**Mr. Speaker:** Let us go to the next question.

**Shri Keshavaengar:** One question, Sir. May I know whether schemes for slum clearance have been submitted by the Mayor of Bangalore through the Mysore Government? If so, are they being accepted by Government, and are they going to be given any financial help by way of subsidy or loan?

**Sardar Swaran Singh:** A scheme was sent by the Mayor of Bangalore. In all these schemes that have been sent up by Bangalore or other corporations or State Governments, the main demand is for subsidy. We are prepared to advance loans, but it was not possible yet to accept the principle of grant of subsidy. It is for that reason that no final decision has yet been taken.

उन

\*१४९. **सेठ गोविन्द दास :** क्या वाणिज्य तथा उद्योग मंत्री यह बताने की कृपा करेंगे कि :

(क) देश में १९५३-५४ में कितना ऊन उत्पादित हुआ ;

(ख) देश में कितनी मात्रा की खपत हुई ;

(ग) क्या ऊन के अबाध निर्यात की कोई मांग है ; और

(घ) क्या यह सच है कि सरकार की ओर से ऊन का निर्यात किया जा रहा है ?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):**

(a) Precise figures for the quantity of wool actually produced during 1953-54 are not available. Estimates of average annual production vary from 50 to 55 million lbs.

(b) The country's requirements are estimated at 25 million lbs. Information about actual consumption is not available.

(c) Yes, Sir.

(d) No, Sir.

**सेठ गोविन्द दास :** भारतवर्ष में सबसे अधिक ऊन का उत्पादन किस राज्य में होता है ?

**श्री कानूनगो :** राजस्थान, सौराष्ट्र और पंजाब में ।

**सेठ गोविन्द दास :** इस उत्पादन के सम्बन्ध में क्या सरकार के सामने इस प्रकार की कोई योजना आयी है, खास कर राजस्थान से कि वहां पर एक ऊन के वस्त्र बनाने का कारखाना स्थापित किया जाना चाहिए ?

**श्री कानूनगो :** ऐसा कोई प्रस्ताव तो नहीं आया है ।

## COAL

\*950. **Shri T. B. Vittal Rao:** Will the Minister of **Production** be pleased to state:

(a) whether Government have come to any decision on the question of increasing the price of coal as suggested by the Indian Mining Association;

(b) if so, the nature of the decision; and

(c) if not, the reasons why a decision is being delayed?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):**

(a) and (b). It is presumed that the Member is referring to the suggestion made by the Indian Mining Association for restoring the cut in coal prices imposed in November 1949. Government have considered this suggestion but have decided not to re-open the matter.

(c) Does not arise.

**Shri T. B. Vittal Rao:** May I know whether Government are proposing to have a uniform price for coal, because the coal in Assam is more costly than coal produced in the Bihar and West Bengal collieries?

**Sardar Swaran Singh:** This is a suggestion for action. We will consider it.

## FINANCIAL AID TO RAJASTHAN

\*952. **Shri Karni Singhji:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether the Rajasthan Government have approached the Government of India for any financial aid for starting a Sulphur-cum-Cement Factory in that State; and

(b) if so, the amount of financial aid promised or granted in that connection?

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

(b) Does not arise.

**Shri Karni Singhji:** In view of the importance of the sulphur industry to India, will the Government of India consider sponsoring one?

**Shri Kanungo:** The Rajasthan Government has sent a proposal to the Planning Commission for a sulphur-cum-cement plant to be included in the Second Five Year Plan. It is being examined in the Planning Commission.

**Shri Karni Singhji:** May I know where this will be located?

**Shri Kanungo:** It is too early to say.

## SALE OF UNUSED AIRCRAFT

\*953. **Shri Bhagwat Jha Azad:** Will the Minister of **Works, Housing and Supply** be pleased to refer to the reply given to starred question No. 1457 asked on the 29th September, 1954 regarding the sale of aircraft and state:

(a) the number of aircrafts still lying in the Panagarh aerodrome at the end of November, 1954; and

(b) the name of the foreign firm which has bought those planes and the name of the Indian firm through which they were sold?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):**

(a) Sixty-one.

(b) A statement giving the information is placed on the Table of the House. [See Appendix IV, annexure No. 42.]

**Shri Bhagwat Jha Azad:** May I know what the Government intend to do with these aircraft which are still lying and the number of which is so large?

**Sardar Swaran Singh:** They are intended to be sold.

**Shri Bhagwat Jha Azad:** The statement shows that some of the aircraft were re-sold by the Indian firm to foreign firms. May I know whether it is in the knowledge of Government at what price they were

re-sold by the Indian firm to the foreign firms?

**Sardar Swaran Singh:** No, Sir; we did not probe into the matter.

**Shri Bhagwat Jha Azad:** May I know if the Government is aware that the aircrafts which were sold for a very low price by the Government to this firm were re-sold to the foreign firms at very higher prices and may I know what were the reasons that weighed with the Government to give a contract to this Banwari Lal firm of Japanese cloth repute?

**Sardar Swaran Singh:** That is hardly a question which arises out of this. But, this is a question which has been asked again and again on the floor of the House and the strong adjectives that are being used by the hon. Member are hardly called for because this is a matter which has been explained. This was the highest bid that we could get and this was the highest amount that the aircrafts could fetch.

#### AND STEEL COMPANY

\*955. **Shri Sarangadhar Das:** Will the Minister of Production be pleased to state:

(a) whether it is a fact that Messrs. Tata Iron and Steel Company have invited the attention of Government to some aspects of the Krupp-Demag Steel Project, which, according to them are unsatisfactory;

(b) whether Government had any consultations with the Tata Iron and Steel Company's representatives in this respect; and

(c) if so, what were the results?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** (a) to (c). The representative of Tata Iron and Steel Co., who served on an informal committee which examined the preliminary Project Report submitted by the German Consultants, raised certain points mainly of a technical nature. Some of the points referred to concern the

kinds and sources of coal to be used, the development and processing of certain iron-ores, matters relating to refractories, water, transportation, energy balance and a number of other technical details about the proposed steel plant. These points have been considered by the Government in consultation with technical experts.

**Shri Sarangadhar Das:** May I know if any advice given by the representative of the Tatas has been wholly accepted by the Government?

**Sardar Swaran Singh:** It was a very detailed advice that was given by the representative of the Tatas and it is really difficult to say at this stage when the project is still being formulated as to how much of it has been completely or formally accepted and upto what percentage.

**Shri Sarangadhar Das:** Did they suggest anything about the form of agreement to be entered into between the Government and the Krupp-Demag combine?

**Sardar Swaran Singh:** That is hardly a point upon which outside advice was necessary. Their advice was sought mainly on technical aspects. So far as the form of the agreement and other financial aspects are concerned, Government have got other advisers.

**Shri Velayudhan:** May I know in this connection whether the Government have sent the Managing Director of the Hindustan Steel Factory to Germany and did he submit a report?

**Sardar Swaran Singh:** I am afraid I have got no information.

**Shri P. C. Bose:** May I know whether the Tatas have got any concern with this proposed steel plant or did they give advice gratis?

**Sardar Swaran Singh:** We consulted them and they gave the advice.

## AVIATION SPIRIT

\*956. **Shrimati Tarkeshwari Sinha:** Will the Minister of Works, Housing and Supply be pleased to state:

(a) whether the Pakistan Government have agreed to provide necessary facilities for the transport of aviation spirit from West Bengal to Assam by the river route;

(b) whether this arrangement will be on a temporary or a permanent basis; and

(c) the quantity of aviation spirit that has so far been transhipped by this route from West Bengal to Assam this year?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):**

(a) Yes, Sir.

(b) On temporary basis.

(c) Approximately 80,000 gallons of Aviation Spirit have been transhipped by barges by the river route from Calcutta to Assam.

**Shrimati Tarkeshwari Sinha:** May I know whether any calculation of the amount of aviation spirit needed by Assam to carry on the flood relief operation has been made, and of that amount, how much will be carried by the river route?

**Sardar Swaran Singh:** I have not got that calculation or break-up.

**Shrimati Tarkeshwari Sinha:** How does the cost of transshipment by the river route compare with the cost by the rail route, and may I know whether there is any increase in the cost of transportation by the river route and whether it has increased the cost of aviation spirit?

**Sardar Swaran Singh:** It may be actually the other way round.

## URANIUM ORE PROSPECTING

\*960. **Shri T. K. Chaudhuri:** Will the Prime Minister be pleased to state:

(a) the number of persons who have applied so far and claimed the reward of Rs. 10,000 for the discovery of Deposits of Uranium Ore capable of producing 50 tons of Uranium; and

(b) whether the Department of Atomic Energy have formulated any scheme of imparting training to laymen in Uranium Ore prospecting?

**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru):** (a) Four parties have so far applied for the reward of Rs. 10,000 on account of discovery of new deposits of uranium ore. Two of these claims have been rejected as the conditions laid down for the grant of the reward were not fulfilled. The other two claims are under investigation.

(b) Instructions have been issued to all field geologists of the Raw Materials Division of the Department of Atomic Energy to enlist the help of intelligent villagers and other persons with whom they come in contact during their camps at various places. This is to be done by giving talks on Uranium and giving them some idea of the kind of mineral to be looked for, the value of the mineral and also its importance to the country.

**Shri T. K. Chaudhuri:** May I know whether the recent announcement of prizes for the discovery of deposits of less than 50 tons has resulted in extensive discovery of such deposits?

**Shri Jawaharlal Nehru:** I do not know which announcement the hon. Member is referring to. There have been discoveries of uranium in various parts of the country.

**Shri T. K. Chaudhuri:** There have been two sets of announcements, one for deposits of more than 50 tons and another for less than 50 tons.

**Shri Jawaharlal Nehru:** Yes. This was the second announcement which was rather annexed to the conditions of the first. It is a fairly recent one and I am not aware of any particular results of the recent announcement.

**Shri Jaipal Singh:** Does this award for discoveries apply to other very valuable metals like titanium also?

**Shri Jawaharlal Nehru:** This particularly applies to uranium and thorium.



## RECOVERY OF ABDUCTED WOMEN

\*961. **Shri L. Jogeswar Singh:** Will the Prime Minister be pleased to state:

(a) the number of abducted Indian women and children still to be recovered from Pakistan and the number so far recovered;

(b) whether all the abducted women and children so far recovered have come to India; and

(c) the steps so far taken to rehabilitate them in India?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):**

(a) and (b). The hon. Member presumably desires information in respect of non-Muslim abducted women and children. The number of such abducted persons recovered in Pakistan from 1-12-1947 to 30-9-1954 is 9,020; of these 8,777 have been received in India. It is regretted that it is not possible to supply the figures of abducted persons yet to be recovered from Pakistan, as the work of recoveries is done on the basis of clues received from various sources which frequently result in overlapping of names etc. and make it difficult to calculate the total number of cases of abduction.

(c) Most of the recovered persons received in India have been restored to their relatives. There are only a few cases of such persons whose relatives could not be traced or were unwilling to accept them. Such persons were handed over to the Rehabilitation Homes.

**Shri L. Jogeswar Singh:** May I know whether it is a fact that the progress of recovery in Pakistan is very slow as compared to that in India, and if so, why?

**Sardar Swaran Singh:** I do not want to emulate all that. We are trying to do our best and we leave Pakistan to do their best.

**Shri L. Jogeswar Singh:** The hon. Minister has just stated that a number of abducted women have not come back to India from East Pakistan. May I know the reasons?

**Sardar Swaran Singh:** I do not accept the first premise when he says that a large number of women who have been recovered in Pakistan have not come over to India; that is not correct. I do not know what is the basis of that information. Quite a large number of women have been recovered and have gone back to their homes, and a big percentage out of them have actually come over to India.

**Shri L. Jogeswar Singh:** May I know whether it is a fact that there are some relations of these abducted women who refuse to receive back these abducted women from Pakistan?

**Sardar Swaran Singh:** Sir, I must confess that in spite of my best efforts I have not been able to follow what the hon. Member wants.

**Mr. Speaker:** Whether many relations of these abducted women refuse to accept them in their homes?

**Sardar Swaran Singh:** That is incorrect. Actually, the recovered Hindu and Sikh women who have been brought over to India have been accepted in society and have been accepted by their relatives and friends.

## SHOW ROOMS IN EMBASSIES

\*962. **Shri S. C. Samanta:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that Indian handicrafts and cottage industries products are in great demand in foreign countries; and

(b) if so, whether Government propose to open show-rooms for exhibiting Indian products in the embassies where there are no show-rooms already?

**The Minister of Commerce (Shri Karmarkar):** (a) It is a fact that there is some demand for the articles mentioned.

(b) Yes, Sir.

I should also like to add that the export of handicrafts is growing on account of the exhibitions being held in different countries.

**Shri S. C. Samanta:** May I know the number of Embassies where there are such show-rooms?

**Shri Karmarkar:** Sir, I could tell my hon. friend that the show-rooms set up in premises specially acquired for the purpose are in Colombo, Malaya, Bangkok, Philippines and Thailand. There are 4 centres where moderate size show-rooms are set up in the Embassies, High Commissions, Consulates or Legation premises, and there are 18 centres where nucleus show-rooms or show-windows exist for display purposes.

**Shri S. C. Samanta:** May I know when the exhibits for the show-rooms are selected, whether the Embassy places the order direct or is it done through some agency in the country?

**Shri Karmarkar:** These articles that are being displayed in show-rooms are selected by us—the Handicraft Board and officers of the Government of India concerned in that behalf. These show-rooms are for purposes of show and not for purposes of sales. Some of the exhibits exhibited in the exhibition are also sold if found feasible; otherwise the show rooms are there for show.

**Shri S. C. Samanta:** I wanted to know whether the Embassies help those people who are satisfied with the things and who want them?

**Shri Karmarkar:** Certainly; it is one of the duties of the Embassies.

**Shri Sarangadhar Das:** May I know what arrangements there are in those places where there are show-rooms in the Embassies for people of those countries to order for large quantities of those articles, and how they are supplied?

**Shri Karmarkar:** Recently it has been our policy to tie up the show-rooms or particular centres with corporations to be established in the

countries concerned and Government have recently approved a scheme to set up a particular centre in New York to deal with the corporation.

#### HIGH POWER TRANSMITTER

\*971. **Shri Achuthan:** Will the Minister of Information and Broadcasting be pleased to state:

(a) when the high-power transmitter is going to be installed in the West Coast (Malayalam speaking area); and

(b) where it will be located?

**The Minister of Information and Broadcasting (Dr. Keskar):** (a) By March, 1956.

(b) The exact location of the transmitter has not yet been finalised.

**Shri Achuthan:** May I know whether by this time any preliminary investigations have been conducted for the selection of the site concerned.

**Dr. Keskar:** Preliminary investigations are taking place and a number of alternative sites are being considered.

**Shri Achuthan:** May I know what is the estimated expenditure intended for installation of this high-power transmitter station?

**Dr. Keskar:** I won't be able to give the exact figure; it will be probably about Rs. 8 to 10 lakhs.

**Shri Achuthan:** In view of the fact that Trichur, Cranganur and Irinjalakuda are culturally important places situated almost in the centre of Kerala, will there be any consideration shown by the Government that this station must be in the central place of Kerala?

**Dr. Keskar:** Yes; the object of locating this transmitter is to see that a major part of the Kerala area is covered by radio and all relevant factors will be taken into consideration.

**Shri S. C. Samanta:** May I know whether the high-power transmitter

## RECOVERY OF ABDUCTED WOMEN

\*961. **Shri L. Jogeswar Singh:** Will the Prime Minister be pleased to state:

(a) the number of abducted Indian women and children still to be recovered from Pakistan and the number so far recovered;

(b) whether all the abducted women and children so far recovered have come to India; and

(c) the steps so far taken to rehabilitate them in India?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):**

(a) and (b). The hon. Member presumably desires information in respect of non-Muslim abducted women and children. The number of such abducted persons recovered in Pakistan from 1-12-1947 to 30-9-1954 is 9,020; of these 8,777 have been received in India. It is regretted that it is not possible to supply the figures of abducted persons yet to be recovered from Pakistan, as the work of recoveries is done on the basis of clues received from various sources which frequently result in overlapping of names etc. and make it difficult to calculate the total number of cases of abduction.

(c) Most of the recovered persons received in India have been restored to their relatives. There are only a few cases of such persons whose relatives could not be traced or were unwilling to accept them. Such persons were handed over to the Rehabilitation Homes.

**Shri L. Jogeswar Singh:** May I know whether it is a fact that the progress of recovery in Pakistan is very slow as compared to that in India, and if so, why?

**Sardar Swaran Singh:** I do not want to emulate all that. We are trying to do our best and we leave Pakistan to do their best.

**Shri L. Jogeswar Singh:** The hon. Minister has just stated that a number of abducted women have not come back to India from East Pakistan. May I know the reasons?

**Sardar Swaran Singh:** I do not accept the first premise when he says that a large number of women who have been recovered in Pakistan have not come over to India; that is not correct. I do not know what is the basis of that information. Quite a large number of women have been recovered and have gone back to their homes, and a big percentage out of them have actually come over to India.

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**Dr. Keskar:** Yes; the object of locating this transmitter is to see that a major part of the Kerala area is covered by radio and all relevant factors will be taken into consideration.

**Shri S. C. Samanta:** May I know whether the high-power transmitter

that is going to be replaced by a new one at Delhi will be sent to the West Coast?

**Dr. Keskar:** No, Sir; this has nothing to do with the highpower transmitter being installed there.

#### TINPLATES

\*972. **Shri Kamal Singh:** Will the Minister of Commerce and Industry be pleased to state the steps taken by Government to bring down the price of tinplate by increasing its production and supplies as recommended by the Tariff Commission?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** The selling price of tinplate has been reduced by Rs. 50/- per ton since 1st April, 1954. The position is under constant review and further reduction will be made as and when the situation warrants it.

**Shri Kamal Singh:** May I know whether it is a fact that despite granting of quotas tinplate is not available from the various stockists?

**Shri Kanungo:** It is the other way round.

**Shri Jaipal Singh:** Are any special steps being taken to increase the production of tinplate?

**Shri Kanungo:** The Tinplate Company have a programme of expanding their production capacity and another concern has been granted licence to do tinplating.

**Shri Jaipal Singh:** What will be the quantum of increase by this plant?

**Shri Kanungo:** It will be 10,000 tons by the Tinplate Company and the other one will also be 10,000 tons per annum.

**Shri Kamal Singh:** I am afraid I could not make myself clear. In spite of the quotas being granted to applicants, may I know whether the Government is aware that the stockists are not able to supply because they have no stocks?

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

The quotas are granted on the basis of stocks available and it may be that some particular case has come to the hon. Member's notice in which a particular stockist did not have stocks. If any such information is brought to the notice of the Government suitable action will be taken. But, normally quotas are sanctioned only more or less taking into account the possible amount of stocks available.

#### ADVANCED TRAINING TO ENGINEERS

\*975. **Shri M. S. Gurupadaswamy:** Will the Minister of Irrigation and Power be pleased to state:

(a) whether any Training Centre for giving advanced training to Engineers in Design has been started recently;

(b) if so, when and where this centre is located;

(c) the number of trainees;

(d) the duration of the course; and

(e) the criterion for selection of trainees?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) to (e). A statement giving the required information is laid on the Table of the House. [See Appendix IV, annexure No. 43.]

**Shri T. S. A. Chettiar:** Where is that training centre?

**Shri Hathi:** There is no one place. These graduates are sent to various projects. The statement mentions all those details.

#### फोर्ड प्रतिष्ठान दल (सिफारसों)

\*९७६. श्री एस० एल० द्विवेदी : क्या वाणिज्य तथा उद्योग मंत्री निम्नलिखित बातें दर्शाने वाला एक विवरण सभा पटल पर रखने की कृपा करेंगे :

(क) छोटे पैमाने के उद्योगों आदि के विकास के लिये ऋणों के सम्बन्ध में विशेष सुविधायें देने के लिये फोर्ड प्रतिष्ठान दल की सिफारिश पर सरकार ने क्या निश्चय किये हैं ; और

(ख) १९५४-५५ और १९५५-५६ में इस प्रयोजन के लिये सम्बन्धित राज्यों द्वारा मांगे गये ऋणों की राशि और अभी तक बँचूर किये गये ऋणों की राशियाँ क्या हैं ?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) and (b). A statement is laid on the Table of the House. [See Appendix IV, annexure No. 44.]

**Shri M. L. Dwivedi:** In pursuance of the recommendations of the Ford Foundation Team in respect of the State Governments and Central Government I want to know whether decisions have been taken or not?

**Shri Kanungo:** As far as the Central Government is concerned, decisions are being taken and they have been published.

**Shri M. L. Dwivedi:** I want to know what is the total sum earmarked for this purpose?

**Shri Kanungo:** Rs. 135 lakhs.

**Shri M. L. Dwivedi:** As laid down in the statement, the demand by the State Governments was for Rs. 88,40 lakhs in 1954-55 but the amount sanctioned was only Rs. 57.91 lakhs. I want to know why all the amount requested for by the State Governments was not sanctioned?

**Shri Kanungo:** They were mostly demands for loans. It all depends upon so many things: there were schemes and schemes which did not conform to the conditions. Therefore they have not been sanctioned.

**Shri M. L. Dwivedi:** May I know whether any demand or request for loan has been received from the Uttar Pradesh Government?

**Shri Kanungo:** No.

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** Question No. 977 and question No. 989 are on the same subject. If you permit me, I might take them together.

**Mr. Speaker:** Yes.

#### SINDRI FERTILIZER FACTORY

\*977. **Sardar Hukam Singh:** Will the Minister of Production be pleased to state the value of actual shortage revealed in the stocks of raw materials in the Sindri Fertilizer Factory at the close of the financial year 1953-54 and the reasons therefor?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** The value of the actual shortages revealed in the stocks of raw materials at the end of the year 1953-54 was as follows:

Coke.....260 tons valued at Rs. 10,353.

Gypsum.....8,849 tons valued at Rs. 3,05,916.

These represent 0.2 per cent. and 2.09 per cent., respectively, of the total receipts and are not abnormal. The causes which led to these shortages are:

- (a) bedding down of dumps; and
- (b) loss in transit and due to windage and handling.

#### SINDRI FERTILIZER FACTORY

\*989. **Shri K. C. Sodhia:** Will the Minister of Production be pleased to state:

(a) whether the Committee appointed by the Board of Directors of the Sindri Fertilisers Factory to make a thorough inquiry into the causes of shortages in stock of the factory has submitted its report:

(b) if so, what are its findings; and

(c) the action taken to prevent such shortages in future?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** (a) to (c). A statement is laid on the Table of the Lok Sabha. [See Appendix IV, annexure No. 45.]

**Sardar Hukam Singh:** May I know when the first check of the stocks of the raw materials purchased for the factory was done?

**Sardar Swaran Singh:** As hon. Members know, the assets of the old Fertilisers Project, Sindri, were transferred on the 16th January, 1952, to a private limited company known as the Sindri Fertilizers and Chemicals, Ltd., a body registered under the Indian Companies Act, 1913. The first annual verification of the stock of raw materials was conducted at the end of the accounting period 31st March, 1953, which disclosed these shortages. They cover the entire period since the factory started actually working.

**Sardar Hukam Singh:** May I know whether any enquiry was made by any officer as regards the comparative effect of such a shortage, and whether such a shortage is possible or is happening in other factories in foreign countries so far as these materials are concerned?

**Sardar Swaran Singh:** As I have said, and as also indicated in the statement a copy of which has been laid on the Table of the Lok Sabha in reply to the other question which was also answered by me just now along with question No. 977, a Committee was constituted. It went into the entire question and it found that the estimate of the shortfall was not quite correct scientifically and statistically. So far as comparison with similar factories in other countries was concerned, that is not necessary and it has not been undertaken.

**Shri K. C. Sodhia:** In the statement, it is said that a scientific re-verification was done. What is this scientific re-verification?

**Sardar Swaran Singh:** Actually, an attempt has been made to explain it somewhat in the statement itself. The scientific verification obviously is scientific re-verification, and if I give any explanation of it, I will be simply translating it which is hardly necessary, because, this expression itself is quite a good one and a precise one.

**Shri K. C. Sodhia:** May I know the reason why this Committee could not meet?

**Sardar Swaran Singh:** One of the reasons was that one of the members was a representative of the Auditor-General, and the latter thought that in view of the statutory obligations which rest upon himself, it was not in the fitness of things that he should nominate a representative. This was the main reason why the Committee could not function.

**Shri K. C. Sodhia:** Who was this expert who whitewashed the whole affair?

**Sardar Swaran Singh:** Does he want the name of the expert?

**Mr. Speaker:** Yes.

**Sardar Swaran Singh:** He is Mr. Bensen Gyles.

**Dr. N. B. Khare:** This is colour-washing.

#### PEPPER

\*978. **Shri V. P. Nayar:** Will the Minister of Commerce and Industry be pleased to refer to the reply given to starred question No. 5 on the 23rd August, 1954 and state:

(a) whether any steps have been taken by Government to assure fair prices to the pepper growers for the pepper produce; and

(b) what is the effect of the reduction in export duty given effect to from the 12th May, 1954?

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

(a) A Spices Enquiry Committee was set up to investigate into the production and marketing of some of the important dollar earning crops of India including pepper, and on the recommendation of the Committee, Government are preparing Schemes in consultation with the State Governments concerned to develop the production of pepper on scientific lines, to reduce its cost of production and to increase the margin of profit to the growers. Government are also considering, in consultation with the trade interests concerned, a scheme for setting up an Export Promotion Council for pepper.

(b) The reduction of duty had the effect of improving exports of pepper in July and August but there has been a sharp fall in exports in September and October, 1954. This is usually the lean period for exports, as pepper from the new crop becomes available for export only late in the year. No conclusion can, therefore, be drawn about the effect of the reduction in duty.

**Shri V. P. Nayar:** From the statement published by Government in their Report on Foreign Sea, Land and Air Routes of India, I find that from 1952 to 1954 the quantity of pepper exported has increased by 30 per cent. and that the total realisation of the value has been reduced by thirty to forty per cent? May I know whether in view of this, the Government have considered the desirability of taking up the matter of export of pepper at State level?

**Shri T. T. Krishnamachari:** The remedy suggested cannot cure the ill that has been disclosed. The price of pepper depends very largely on world factors. In the initial days referred to in that particular statement, India had a sort of semi-monopoly. Recently, both Indonesia and Sarawak have come into the picture and nothing that a State can do can bolster up the price of pepper unless we can do it by agreement with other countries which, I think, is a matter largely in the realms of remote possibility.

**Shri V. P. Nayar:** I find that in the month of August, 1954, while Rs. 99.13 lakhs worth of pepper had been exported from India, Rs. 88.44 lakhs worth of pepper have been sent only to the United States of America. May I know whether it is not a fact that it is due to this monopoly of the United States purchasing Indian pepper that the price of pepper has been subject to such vicissitudes and has affected the growers?

**Shri T. T. Krishnamachari:** It might be construed to be a monopoly. If it is, it is a monopoly of consumption and it is perhaps a good thing.

**Shri V. P. Nayar:** What steps have Government taken to increase the trade in pepper with other countries to which we are not exporting pepper in sufficiently large quantities and may I also know whether in doing that, the Government have any proposals to do it on State to State basis?

**Shri T. T. Krishnamachari:** As regards the latter part of the question, I am afraid, Government have no intention to do so. In regard to the former part of the question, a study of the pepper consumption propensities in each country is a little too big for us to undertake at the present moment.

**Shri A. M. Thomas:** It has been repeatedly laid down that the levy of export duty is not primarily a revenue measure. May I know what exactly is the price of pepper now, and whether the growers have been benefited to any extent after the change in the export duty, and is the Government aware that we are not in a position to keep up our competitive position in foreign markets because of the very high export duty?

**Shri T. T. Krishnamachari:** The question is a very complex one, and if I were to answer one part of it, I should give away the answer for the other part. At present moment, I must say that the Government are fully cognisant of the position as it now obtains, and they are also watching the trend of prices. The only trouble is, when we examine the position with a view to propose a reduction of export duty, prices go up. Naturally, one section of the Government is concerned in gathering revenue, and the position for reduction in duty does not remain stable. If the market is stable even at a lower level, possibly Government will take action. The initial proposition adumbrated by my hon. friend that the Government does not levy export duty for revenue purposes only, still holds good.



## CLOCK FACTORY

\*979. **Shri Dabhi:** Will the Minister of Commerce and Industry be pleased to refer to the reply given to unstarred question No. 885 on the 29th September, 1954 and state:

(a) whether it is a fact that Government have sanctioned a grant of Rs. 1,23,000 to the Madhya Bharat Government for the purchase of machine and towards cost of installation of a clock-manufacturing factory in addition to the loan of Rs. 15,000 as working capital;

(b) if so, where this factory will be installed and when it will start functioning; and

(c) what will be its productive capacity?

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

(b) The factory will be installed at Indore. The factory is expected to start functioning as soon as necessary machinery and equipment are purchased and erected and start production by April, 1955.

(c) It is at present estimated that the Centre will make 100 clocks a month of standard type of 10" dial and later step up the production gradually.

**Shri Dabhi:** What is the amount sanctioned?

**Shri Kanungo:** Rs. 1,23,000.

**Shri Dabhi:** May I know whether Government, before sanctioning this aid, have enquired about the price and quality of the clock to be manufactured?

**Shri Kanungo:** Yes. One hundred clocks will be produced and the cost price of a clock is estimated to be Rs. 66-8-0.

**Shri Dabhi:** May I take it that with regard to the price and quality, it is favourable as compared to the imported clocks?

**Shri Kanungo:** That is the expectation.

**Shri T. S. A. Chettiar:** May I know whether this is a business concern run on business lines and whether Government proposes to give grants to business concerns?

**Shri Kanungo:** It is not wholly a business concern; it is a pioneering work for clock-making.

**Shri S. C. Samanta:** May I know whether this clock industry will be run on cottage industry basis?

**Shri Kanungo:** It will be; a large number of the components will be produced in different places, and assembly will be done at Centre only.

## BILASPUR MERGE

\*982. **Shri Gidwani:** Will the Minister of Irrigation and Power be pleased to state:

(a) whether a Committee has been appointed by the Government to decide what area of Bilaspur should merge with the Punjab for the purpose of Bhakra-Nangal Project;

(b) whether the Committee has submitted its report; and

(c) if so, what are its recommendations?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) Yes, Sir.

(b) Yes, Sir.

(c) As the report is under the consideration of the Government, it would not be in the public interest to disclose the recommendation of the Committee at this stage.

## टाइपराईटर्स

\*९८३. **सेठ गोविन्द दास :** क्या वाणिज्य तथा उद्योग मंत्री यह बताने की कृपा करेंगे कि भारत में १९५३ में और सितम्बर, १९५४ के अन्त तक देवनागरी की बोर्डों वाले कितने टाइपराईटर्स आयात किये गये थे ?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** Statistics of imports of typewriters with Devnagari key-boards are not separately available.

**Seth Govind Das:** Is the hon. Minister aware that so far, the Devnagari key-board has not been finalised, and on account of this, various difficulties are being experienced by the persons who want to take these typewriters?

**Shri T. T. Krishnamachari:** Yes, Sir.

**Seth Govind Das:** What steps are being taken to finalise these key-boards at an early date?

**Shri T. T. Krishnamachari:** The hon. Member, I think, would have known that at one stage Kakasaheb Kalelkar visited Germany and wanted to arrange for the manufacture of typewriters with a key-board design which he had approved. Subsequently it was found that that typewriter with this key-board can be manufactured in this country. The particular key-board was subjected to investigation by a Committee and unfortunately the Committee did not quite approve of this design. The matter rests at that particular level.

**Seth Govind Das:** What is being done now? This is a very important thing. Do Government want that these circumstances should continue and that no final key-board should be arrived at?

**Shri T. T. Krishnamachari:** The question of standardisation of the script—the main trouble is in regard to the type of script—is under consideration.

**Shri M. L. Dwivedi:** May I know whether the recommendations of the Committee which met at Lucknow in connection with the reform of the Hindi script have been considered by the Government in this connection?

**Shri T. T. Krishnamachari:** I believe the official Committee that went into this matter did take into account all such views.

**Seth Govind Das:** The matter is under consideration for a very long time. I want to know when it will be over.

552 LSD.

**Mr. Speaker:** I am going to the next question.

#### RADIO ARTISTES

**\*985. Shri Bhagwat Jha Azad:** Will the Minister of Information and Broadcasting be pleased to state:

(a) whether All India Radio pays remuneration to its staff artistes for their scripts for broadcasts; and

(b) whether there is any discrimination in payment of remuneration to the staff artistes and the casual script writers for the same kind of work?

**The Minister of Information and Broadcasting (Dr. Keskar):** (a) and (b). Staff Artistes receive a monthly remuneration which is not based on the number of scripts submitted by them during the month, whereas Casual Artistes are paid a royalty fee for the first and subsequent broadcasts of each script submitted by them. The question of discrimination in payment to staff Artistes and Casual Artistes does not, therefore, arise.

**Shri Bhagwat Jha Azad:** May I know in the case of those artistes who are on a contract basis for broadcasting work and other functions, whether it is in their contract that they will be asked to submit to A.I.R. scripts free of any remuneration?

**Dr. Keskar:** I do not know what type of contract he is referring to, because staff artistes are also on contract and casual artistes are also on contract and it is the duration of contract that differs.

**Shri Bhagwat Jha Azad:** Whereas the casual artistes who submit their scripts for drama etc., get payment, the other artistes who are doing broadcasting work and other staff functions, when they submit any scripts, do not get the same payment. Is it in their contract that they will submit scripts? Or will they be paid for giving scripts?

**Dr. Keskar:** I have not understood the question.

**Shri Bhagwat Jha Azad:** Is it not a fact that some of the staff artistes of the A.I.R. are being paid for their scripts whereas the casual artistes, who come from outside, are paid at double the rate?

**Dr. Keskar:** As I said, staff artistes are persons who are paid monthly, and for whatever work they do and whatever scripts they submit in the performance of their duties, they are not paid anything extra while casual artistes are paid for each script and it is not possible therefore to compare both these rates, because they are quite different.

**Shri Bhagwat Jha Azad:** I want to know....

**Mr. Speaker:** He may want to know, but he may consult the Minister and get the information. The question itself is not very clear to me.

**Shri Bhagwat Jha Azad:** But I will make it clear and it is a very important question.

**Mr. Speaker:** He may consult the Minister concerned.

**Shri Bhagwat Jha Azad:** But the Minister will not tell me outside.

#### CLOTH

\*986. **Shrimati Tarkeshwari Sinha:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether the Chinese offer to sell at competitive prices a large quantity of textiles to Ceylon in exchange of rubber will affect the export of Indian cloth to Ceylon; and

(b) whether Government are aware that the Chinese offer has caused great concern among the handloom industry in this country?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) and (b). Government have no information of any such offer.

**Shrimati Tarkeshwari Sinha:** What amount of cloth has been exported by India in the years 1953 and 1954? Out of that, what amount was handloom cloth?

**Shri Kanungo:** In 1954 (upto August), mill made cloth—17.38 million yards; and handloom cloth—13.31 million yards.

In 1953, mill made cloth—19.29 million yards; and handloom cloth—27.63 million yards.

In 1952, mill made cloth—16.56 million yards; and handloom cloth—26.65 million yards.

**Shrimati Tarkeshwari Sinha:** May I know whether Government is aware of the reports appearing in the papers that China is entering the world market as an exporter of textiles, and if so, how far will that affect the Sino-India agreement about the export of textiles to China?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** We have seen the reports, but I do not think anything has materialised yet.

#### MACHINES FOR SMALL SCALE INDUSTRIES

\*987. **Shri Sarangadhar Das:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether consistent with the policy of Government to develop small village industries, any Expert Committee has been appointed to develop small machines for such industries;

(b) the names of the experts in the above committee and those of the machines so far developed; and

(c) whether the manufacture of the accepted machines is being done on a large scale?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) to (c). The use of suitable machinery for indigenous industries is a question that is continuously engaging the attention of the Departments of the Government both at the Centre and the States and other Organisations. For small Scale Industries, the Government of India have decided also

to set up four Institutes of Technology which would be particularly concerned with this subject.

**Shri Sarangadhar Das:** In view of the fact that electric power from these big projects will be available in the rural areas through the grid, may I know if any mechanisation of small industries by providing small machines and small motors is being developed in these institutes? I think for a long time it has been said that "it is receiving attention", but I wish to know if these small motors and machines will be ready when the electric power will be available.

**Shri Kanungo:** This is exactly the purpose for which the four technical Institutes are being located in the different parts of the country, and they are likely to start their work in the course of this financial year. Certainly, they will apply their mind to this type of invention and find out machinery which will be useful for production in small-scale industries.

**Shrimati Renu Chakravartty:** May I know if the Government is also taking into consideration the displacement which may occur due to the introduction of these machines, for example, in the bidi industry due to the development of a bidi making machine?

**Shri Kanungo:** Of course.

#### WRITTEN ANSWERS TO QUESTIONS

##### बढ़ी आयोग

\*९३९. श्री एस० एन० दास : क्या तबई तथा बिछतु मंत्री यह त्ताने की कृपा करेंगे कि :

(क) क्या गंगा और ब्रह्मपुत्र तथा उन की सहायक नदियों की बाढ़ों की रोकथाम करने के सम्बन्ध में बनाये गये दो नदी आयोगों की कोई बैठक हुई थी, और यदि हां, तो उन्होंने क्या निश्चय किये ;

(ख) अभी तक इन आयोगों के लिये कितनी राशि मंजूर की गई है ; और

(ग) उन के मुख्यालय किन-किन स्थानों पर रखे जायेंगे ?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) The first meetings of the Ganga River Commission (Floods) and the Brahmputra River Commission (Floods) were held on the 24th and 26th November, 1954, respectively. A statement showing the decisions taken at these meetings will be laid on the Table of the House as soon as the minutes are finalized.

(b) The two River Commissions are technical advisory bodies and the question of sanctioning funds for them does not arise.

(c) At New Delhi.

##### GHANI OIL INDUSTRY

\*946. **Pandit D. N. Tiwary:** Will the Minister of Commerce and Industry be pleased to refer to the reply given to starred question No. 1178 on the 22nd March, 1954 and state:

(a) the causes of decrease in the output of "Ghani oil";

(b) the number of 'Ghanies' lying idle; and

(c) the amount of subsidies given to increase the production?

**The Deputy Minister of Commerce and Industry (Shri Kanungo):** (a) to (c). A statement is laid on the Table of the House. [See Appendix IV, annexure No. 48.]

##### STEEL EXPERTS

\*951. **Shri Nanadas:** Will the Minister of Commerce and Industry be pleased to lay a statement on the Table of the House showing:

(a) the names of the Consulting Engineers who have been appointed by Government to advise on the expansion of steel plants and industries in India;

(b) whether they belong to a foreign owned company;

(c) the remuneration paid to them from the time of their appointment to date;

(d) the terms of their appointment and matters on which they have been consulted; and

(e) the nature of advice tendered by them?

**The Minister of Commerce (Shri Karmarkar):** (a) Governments have not appointed any consulting engineers to advise on the expansion of steel plants and industries.

(b) to (e). Do not arise.

#### इस्पात संयंत्र

\*१५४. श्री आर० एन० सिंह : क्या

उत्पादन मंत्री यह बताने की कृपा करेंगे कि एक नए इस्पात संयंत्र के प्राविधिक (टेक्निकल) पहलुओं का अध्ययन करने के लिये कितने विशेषज्ञ नियुक्त किये गये हैं और क्या वे सभी भारतीय हैं ?

**The Minister of Production (Shri K. C. Reddy):** Assuming that the hon. Member refers to the appointment of experts in connection with the offer of a steel plant from the Soviet Government, it may be stated that seventeen Indian Experts have so far been selected for studying the technical aspects of the project in collaboration with a team of fourteen Soviet Experts who arrived in India recently.

#### NATIONALISATION OF TRANSPORT

\*957. **Shri Bahadur Singh:** Will the Minister of Planning be pleased to state whether the Punjab Government have submitted its detailed programme for nationalisation of transport to the Planning Commission?

**The Deputy Minister of Planning (Shri S. N. Mishra):** No, Sir; not yet.

#### VALUABLE MINERALS

\*958. **Dr. Rama Rao:** Will the Prime Minister be pleased to state:

(a) whether eminent Geologists have been deputed to investigate the extent of occurrence of Monazite, Ilmenite and Zircon;

(b) the basic findings of their investigations;

(c) whether they occur in sufficient quantities to make mining possible; and

(d) the steps Government are taking to develop these valuable minerals?

**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru):** (a) Two field parties of the Raw Materials Division of the Department of Atomic Energy under the charge of senior geologists are carrying on survey and prospecting work for estimating the reserves of Monazite, Ilmenite and Zircon in the States of Travancore-Cochin and Andhra.

(b) and (c). The results of investigations so far made indicate that these minerals occur in workable quantities. The survey work is however still in progress. The exact results of the investigations so far carried out cannot be disclosed in the public interest.

(d) Three minerals factories situated in the State of Travancore-Cochin are engaged on producing and developing the above minerals.

#### SEA EROSION

\*959. **Shri C. R. Iyyumni:** Will the Minister of Irrigation and Power be pleased to state:

(a) the names of the States which are subject to frequent sea erosions; and

(b) the steps taken by the State or Central Government to prevent the erosions?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) and (b). The information is being collected and will be laid on the Table of the House as soon as possible.

#### COKE OVEN GAS

\*963. **Shri Morarka:** Will the Minister of Production be pleased to refer to the reply given to starred question No. 1040 on the 16th September, 1954 and state:

(a) whether Government have come to any decision on the tenders submitted for producing Urea and Ammonium Nitrate by making use of the by-product coke-oven gases; and

(b) if so, what are the features of the scheme decided upon by Government?

**The Minister of Production (Shri K. C. Reddy):** (a) A decision is expected to be taken by the end of this month.

(b) Does not arise.

#### SILK GOODS

**\*964. Dr. Satyawad:** Will the Minister of Commerce and Industry be pleased to refer to the reply given to starred question No. 825 on the 13th September, 1954 and state whether any decision has been taken by the Government of U.S.A. on the representation for the exemption of Indian silk sarees, laces and scarves from the U.S. Flammable Fabrics Act?

**The Minister of Commerce (Shri Karmarkar):** Yes, Sir, Indian silk fabrics have not been exempted from the flammability tests provided under the U.S.A. Flammable Fabrics Act.

#### कार्क से बनी हुई वस्तुएं

**\*९६५. श्री जी० एल० चौधरी :** क्या वाणिज्य तथा उद्योग मंत्री निम्नलिखित बातें दर्शाने वाला एक विवरण सभा पटल पर रखने की कृपा करेंगे :

(क) उन देशों के नाम जहां से आमतौर पर कार्क से बनी हुई वस्तुएं आयात की जाती हैं ;

(ख) कार्क से बनी हुई वस्तुओं के सम्बन्ध में देश की वार्षिक आवश्यकता कितनी है ; और

(ग) स्वदेशी उत्पादन में कितने प्रतिशत की पूर्ति होती है ?

**The Minister of Commerce (Shri Karmarkar):** (a) Cork manufactures are generally imported from the U.S.A., U.K., Italy, Portugal, Spain, Western Germany and Norway.

(b) The present estimated annual requirements of our country are worth Rs. 35 lakhs approximately.

(c) Approximately 8.5 per cent of the total requirements are met from indigenous production.

#### EVACUEE PROPERTY

**\*966. Shri Ibrahim:** Will the Minister of Rehabilitation be pleased to state:

(a) the total quantum of Evacuee property pool now available for payment of compensation to displaced persons from West-Pakistan;

(b) the total number of uneconomic properties of evacuees;

(c) how these properties are proposed to be disposed of; and

(d) how many third party claims have been received so far by the Ministry?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** (a) About Rs. 100 crores.

(b) 40,500.

(c) By public auctions or by inviting tenders.

(d) According to Rule 22 of the Administration of Evacuee Property (Central) Rules, 1950, third party claims are to be registered with the Custodians of Evacuee Property and action is being taken by the Custodians accordingly.

#### DELEGATION OF ENGINEERS TO CHINA

**\*967. Shri L. N. Mishra:** Will the Minister of Irrigation and Power be pleased to refer to the reply given to unstarred question No. 688 on the 8th September, 1954 and state:

(a) whether the Indian Delegation of Engineers who visited China in May-June, 1954 have since submitted any detailed report to Government about the working of the scheme of Public Co-operation for executing river valley projects; and

(b) if so, the salient features of the said report?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) and (b). Not yet, Sir. The detailed report will be laid on the Table of the House as soon as it is ready.

**LOAN TO DISPLACED PERSONS IN TRIPURA**

\*968. **Shri Dasaratha Deb:** Will the Minister of Rehabilitation be pleased to refer to the reply given to unstarred question No. 868 on the 29th September, 1954 and state:

(a) the total number of applications for central loan received by Government from the displaced persons of Tripura; and

(b) the number of cases in which Central loans have been given so far?

The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle): (a) and (b). Altogether Rehabilitation Finance Administration have sanctioned loans in 434 cases from Tripura; 4 cases are pending; and the number in respect of cases which have been turned down is not available.

**UNEMPLOYMENT IN MADHYA PRADESH**

\*973. **Mulla Abdullahai:** Will the Minister of Planning be pleased to state:

(a) whether the Government of Madhya Pradesh have formulated a scheme for the eradication of unemployment; and

(b) if so, its details?

The Deputy Minister of Planning (Shri S. N. Mishra): (a) and (b). Yes; a statement showing the schemes suggested by the Madhya Pradesh Government for relieving unemployment is placed on the Table of the House. [See Appendix IV, annexure No. 47.]

**विन्ध्य प्रदेश में सीमेंट का कारखाना**

१७४. श्री बी० डी० शास्त्री : क्या

उच्च तथा उद्योग मंत्री यह बताने की

आवश्यकता करेंगे कि :

(क) क्या विन्ध्य प्रदेश में एक सीमेंट का कारखाना स्थापित करने के लिये विन्ध्य प्रदेश की सरकार के परामर्श से कोई निश्चय किया गया है ;

(ख) यदि हां, तो क्या प्रस्तावित कारखाना सरकार द्वारा वित्त पोषित किया जायेगा अथवा निजी उपक्रम के द्वारा; और

(ग) आरम्भ में उस पर कितना व्यय किया जायेगा ?

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

(b) and (c). Do not arise.

**UNIVERSITY OF MALAYA**

\*980. **Shri S. N. Das:** Will the Prime Minister be pleased to state:

(a) whether the trust for the administration of scholarship fund in Malaya for the benefit of students of Indian origin for higher studies in the University of Malaya has been constituted and is functioning; and

(b) if so, how many scholarships have been granted so far by the trust?

The Deputy Minister of External Affairs (Shri Anil K. Chanda): (a) Yes.

(b) Three.

**PALM TREES**

\*981. **Pandit D. N. Tiwary:** Will the Minister of Commerce and Industry be pleased to refer to the reply given to Starred Question No. 339 on the 24th February, 1954 and state:

(a) what part of the country's requirements of sugar can be met from the palm juices according to Government's estimates, if all the palm trees are utilized; and

(b) the number of palm (*khaajoor*) trees in the country according to the rough estimates prepared by Government?

The Deputy Minister of Commerce and Industry (Shri Kanungo): (a) No precise estimate can be made. It is expected that about 1/7th of the demand can be so met.

(b) About 242 lakhs.

## MUSIC COMPETITION

\*984. **Shri Bahadur Singh:** Will the Minister of Information and Broadcasting be pleased to state:

(a) the number of artistes who responded to the All India Radio's invitation for participation in the music competition held during the Radio month; and

(b) the items in which competition was held?

**The Minister of Information and Broadcasting (Dr. Keskar):** (a) 1,386.

(b) The competition was held in the following categories of Hindustani and Karnataka Music:

- (i) Classical Vocal.
- (ii) Light Classical Vocal.
- (iii) Light Vocal.
- (iv) Instrumental—Melodic.
- (v) Instrumental—Percussion.

## DOCUMENTARY FILMS AND NEWSREELS

\*988. { **Shri T. K. Chaudhuri:**  
**Shri L. Jogeswar Singh:**

Will the Minister of Information and Broadcasting be pleased to state:

(a) whether it is a fact that Motion Picture exhibitors in South India have decided to suspend screening of "approved" films and not to renew their contracts with the Films Division of the Government of India for the exhibition of Documentary Films and Newsreels;

(b) whether a similar decision has been taken by film exhibitors in other parts of the country; and

(c) the reasons or complaints which led film exhibitors in South India to take the above decision?

**The Minister of Information and Broadcasting (Dr. Keskar):** In view of the controversial issues involved, a comprehensive statement is laid on the Table of the House [See Appendix IV, annexure No. 48.]

## DOCUMENTARY FILMS

\*990. **Dr. J. N. Parekh:** Will the Minister of Information and Broadcasting be pleased to state:

(a) whether approved documentary films are compulsorily given for exhibition;

(b) if so, the reasons therefore; and

(c) the policy of Government in this regard?

**The Minister of Information and Broadcasting (Dr. Keskar):** Attention is invited to reply to Question No. 988.

## कोसी नदी का नियन्त्रण

\*१९१. श्री एम० एल० द्विवेदी : क्या सिंचाई तथा बिद्युत मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या कोसी नदी के नियन्त्रण के लिये स्वीकृत योजना वही है, जिस की सिफारिश अनुसंधान प्रयोगशाला, पूना द्वारा की गई थी ;

(ख) यदि हां, तो उस को क्रियान्वित करने में कितना धन और समय लगेगा ; और

(ग) अभी तक कोसी परियोजना को क्रियान्वित करने के काम में कितनी प्रगति हुई है ?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) The present accepted scheme was prepared by the Central Water and Power Commission and not by the Central Water and Power Research Station, Poona. Some design features of the scheme are being tested by hydraulic models at the Research Station as is usual with all such schemes.

(b) The estimate has not yet been finalised but the indications are that it may approximate to Rs. 42.5 crores. The time required for implementation is six years according to the original project report but it is likely to be shortened by labour through co-operation in the area



(c) A statement giving the requisite information is laid on the Table of the House. [See Appendix IV, annexure No. 49.]

**SYNTHETIC PETROLEUM**

**Pandit D. N. Tiwary:**  
 \*992. { **Shri Dabhi:**  
           **Shri Bibhuti Mishra:**  
           **Shri T. K. Chaudhuri:**  
           **Dr. Ram Subhag Singh:**

Will the Minister of **Production** be pleased to state:

(a) whether there is a proposal to set up a plant for synthetic petroleum; and

(b) whether the plan and the estimates of the same have been prepared?

**The Minister of Production (Shri K. C. Reddy):** (a) Yes.

(b) Not yet, Sir.

**ELECTRICITY**

\*993. { **Shri Gidwani:**  
           **Th. Lakshman Singh Charak:**

Will the Minister of **Irrigation and Power** be pleased to state:

(a) the names of the colonies for displaced persons in Delhi where electricity has not yet been provided;

(b) the reasons for the delay; and

(c) when the work will be completed.

**The Deputy Minister of Irrigation and Power (Shri Hathi):** A statement is laid on the Table of the House. [See Appendix IV, annexure No. 50.]

**MUSLIM EVACUEE HOUSES**

\*994. **Sardar Hukam Singh:** Will the Minister of **Rehabilitation** be pleased to state whether any of the Custodians of the various States have given directions for the realisation of rent of Muslim evacuee houses from Displaced Government servants at the rate of 10 per cent. of their pay?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** Only one such case has come to our notice.

**STATE INDUSTRIAL UNDERTAKINGS**

\*995. { **Shri S. N. Das:**  
           **Shri Morarka:**

Will the Minister of **Production** be pleased to refer to the reply to unstarred question No. 241 given on the 3rd September, 1954 and state:

(a) whether the proposals for the constitution of a Central Authority for the management of State Industrial undertakings have been finalised; and

(b) if so, the decision taken thereon?

**The Minister of Production (Shri K. C. Reddy):** (a) and (b). The matter is still under consideration.

**AMMUNITION**

647. **Shri Hem Raj:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the quantities of (i) Black Gun-Powder (ii) Percussion Caps for Muzzle Loading Guns (iii) Fuse Coils and Lead Shots imported during 1952-53 and 1953-54;

(b) the quantity produced in the country during the above period; and

(c) the number and names of the factories engaged in their manufacture, State-wise?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** (a) and (b). A statement is attached. [See Appendix VI, annexure No. 51.]

(c) A list of Gun-powder manufacturers is attached. [See Appendix IV, annexure No. 52.] Information regarding manufacturers of other items is being collected and will be laid on the Table of the House in due course.

**TEA ESTATES**

648. **Shri Nanadas:** Will the Minister of **Commerce and Industry** be pleased to lay a statement on the Table of the House showing:

(a) the number of tea estates that were sold by foreign concerns to Indian concerns from 1947 onwards, yearwise;

(b) their total acreage; and

(c) their location?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** (a) to (c). A statement is attached. See Appendix IV, annexure No. 53.]

#### TEA INDUSTRY

649. **Shri Nanadas:** Will the Minister of Commerce and Industry be pleased to state the total amount of American capital invested in tea industry?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** Rs. 4.54 lakhs as on 30th June, 1948. There has been no participation of any additional American Capital in Tea Industry since that date, according to the information available.

#### D. V. C.

650. **Shri N. B. Chowdhury:** Will the Minister of Irrigation and Power be pleased to state:

(a) the number of persons to be rehabilitated in connection with the construction of the Panchet Hill and Maithon Hill Projects; and

(b) the present position of rehabilitation work in respect of two projects?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) Panchet Hill—About 30,000 persons.

Maithon—About 25,000 persons.

(b) At Panchet Hill, as no options have so far been indicated by the persons likely to be displaced, no scheme for rehabilitation has yet been finalized. In the case of Maithon, 1,500 acres of paddy land have been reclaimed against the requirement of 1768 acres. There has been no demand for replacement of houses.

#### SECOND FIVE YEAR PLAN

651. **Shri N. B. Chowdhury:** Will the Minister of Planning be pleased to state:

(a) whether the Government of West Bengal have submitted its proposals regarding irrigation projects for inclusion in the Second Five Year Plan; and

(b) if so, whether a list of these proposals will be placed on the Table of the House?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** (a) and (b). The West Bengal Government have sent a list of Schemes for examination by the Technical Committee on irrigation and power projects. The Committee after obtaining project reports and examining them, will recommend which of them should be considered in connection with the Second Five Year Plan. The more important irrigation schemes, i.e., which cost Rs. 10 lakhs or more, are given in a statement which is laid on the Table of the House. [See Appendix IV, annexure No. 54.]

#### ग्राम उद्योग

६५३. श्री एम० एल० द्विवेदी : क्या वाणिज्य तथा उद्योग मंत्री यह बताने की कृपा करेंगे कि :

(क) विभिन्न राज्यों के किन-किन गांवों में अखिल भारतीय खादी तथा ग्रामोद्योग बोर्ड ने विकास केन्द्रों के कार्यों में (१) नये ढंग से और (२) पुराने ढंग से सहायता पहुंचाई है ;

(ख) ग्रामोद्योगों की उन्नति के लिये केन्द्र से सहायता प्राप्त करने के क्या उपाय हैं ;

(ग) देहाती क्षेत्रों में विस्तार-योजनाओं को प्रचलित करने के लिये बोर्ड ने किस प्रकार और कहाँ कहाँ पर प्रचार किया ; और

(घ) सार्वजनिक धन का ठीक-ठीक व्यय हो, क्या इस की जांच के लिये कोई व्यवस्था है ?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** (a) and (c). The All-India Khadi and Village Industries Board are carrying on their work for the development of Khadi and Village Industries in a number of villages all over India. It will not be possible to give the

names of all these villages and places or specify the different methods used.

(b) Application should be made to the All-India Khadi and Village Industries Board.

(d) Yes, Sir.

### कोरिया युद्धबन्दी

६५४. श्री एम० एल० द्विवेदी : क्या प्रधान मंत्री यह बताने की कृपा करेंगे कि :

(क) भारत में रहने के लिये मत देने वाले कोरिया-युद्धबन्दीयों को कहां पर बसाया जा रहा है ;

(ख) सरकार ने उन के लिये कितनी राशि मंजूर की है ;

(ग) उनके लिये 'मकानों की व्यवस्था में कितनी राशि व्यय की जा रही है ;

(घ) ये लोग किस किस देश के निवासी हैं और कौन सी भाषा बोलते हैं ; और

(ङ) क्या उन को कोई राष्ट्रीय या अन्तर्राष्ट्रीय भाषा भी सिखाई जायेगी ?

**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru):** (a) The ex-prisoners, who opted for India, are receiving training at the various Training Establishments of the Defence and Rehabilitation Ministries at Secunderabad, Jabalpur, Bangalore and Delhi. They will be rehabilitated after they have finished their training.

(b) Besides free rations, clothing, medical treatment etc. on a prescribed scale, each prisoner has been sanctioned a pocket allowance of Rs. 50/- per month during the period of his training.

(c) Accommodation has been provided at the scale laid down for a sepoy, and most of them have been accommodated in Barracks.

(d) Of the 87 ex-prisoners from Korea now in India, 74 are North Koreans, 2 South Koreans and 11

Chinese. They speak Korean and Chinese and some of them can speak English.

(e) They are being taught Hindi and English.

पाकिस्तान में पेट्रोल के लाइसेंसों का रद्द किया जाना

६५५. श्री एम० एल० द्विवेदी : क्या प्रधान मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या यह सच है कि पाकिस्तान में सैकड़ों गैर-मुस्लिमों के पेट्रोल और मिट्टी के तेल बेचने के लाइसेंस रद्द कर दिये गये हैं और इस लिये तेल कम्पनियों को अपनी एजेंसियां बन्द कर देनी पड़ी हैं ; और

(ख) यदि सच है तो क्या सरकार ने इस दिशा में कोई कार्यवाही की है ?

**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru):** (a) and (b). The East Bengal Government have cancelled the licences of a large number of non-Muslims in Pakistan for the sale of kerosene oil and petroleum and consequently the oil companies have been forced to terminate their agencies. The matter has been taken up with the Government of East Bengal as well as with the Government of Pakistan.

### VEHICLES

656. Dr. Ram Subhag Singh: Will the Minister of Commerce and Industry be pleased to state the number of Indian-made vehicles, excluding locomotives, placed on the road during the last financial year?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** Government have no information. However the number of motor vehicles sold in the country during the last financial year was approximately 10,600.

### LOCAL DEVELOPMENT PROGRAMME

657. Shri D. C. Sharma: Will the Minister of Planning be pleased to state:

(a) the total amount allotted for local development programme to the

Punjab during the first three years of the Plan;

(b) the categories of subjects on which these sums were spent;

(c) whether the amounts sanctioned were fully utilised and if not, the amount of such unutilised money;

(d) on whose recommendation the various development schemes were submitted and approved; and

(e) the machinery through which the working of the approved schemes is checked up?

**The Deputy Minister of Planning (Shri S. N. Mishra):** (a) The programme was inaugurated in 1953-54. An allocation of Rs. 8.90 lakhs for that year was made.

(b) and (c). Schemes relating to water supply, paving of streets, construction of culverts, construction and repairs of Civil and Veterinary Dispensaries, school buildings, village roads etc. were approved but the programme is being implemented only during the current year.

(d) Last year schemes were approved by the State Government on the recommendations of Deputy Commissioners who, in turn, consulted the local officials and non-officials in the Districts. For the current year schemes are being approved by District Development and Planning Committees consisting of officials and non-officials.

(e) Through Deputy Commissioners and District Development-cum-liaison officers in each District.

#### SUPREME COURT BUILDINGS

**658. Shri Nageshwar Prasad Sinha:** Will the Minister of Works, Housing and Supply be pleased to state:

(a) whether the plan of the new Supreme Court buildings has been finalised; and

(b) if so, who prepared the plan and design?

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):**

(a) Yes, Sir.

(b) Shri G. B. Deolalikar, Architect, Central P.W.D.

#### KOREAN PRISONERS OF WAR

**659. Shri T. B. Vittal Rao:** Will the Prime Minister be pleased to state:

(a) the number of Korean and Chinese Prisoners of War who were originally brought to India by the Custodian Forces;

(b) how many of them are still in the country;

(c) where they are located and what steps Government have taken to rehabilitate them; and

(d) how many of them have since been rehabilitated and in what professions?

**The Deputy Minister of External Affairs (Shri Anil K. Chanda):** (a) to (d). Of the 88 ex-prisoners of war originally brought from Korea, one has since been repatriated to China. The remaining 87 are still in India and fall in two categories:—

(i) those who wish to stay in India; and

(ii) those who wish to be repatriated to other countries. Those who have opted for India are receiving training at the various training establishments of the Defence and Rehabilitation Ministries at Secunderabad, Jabalpur, Bangalore and Delhi. The ex-prisoners under the second category are at present located at Delhi, excepting two, who are unwell and are being treated at the Military Hospitals at Aunth and Lucknow. Arrangements are in hand to shift these ex-prisoners from Delhi to Meerut shortly. Excepting one who has been provided with a part-time job in a Nursery School in Delhi, none of the ex-prisoners has so far been rehabilitated as they have not yet completed their training.

#### GROUNDNUT AND GROUNDNUT OIL

**660. Shri C. R. Chowdary:** Will the Minister of Commerce and Industry be pleased to state:

(a) the quantity of groundnut and groundnut oil that has been released for export till the end of December, 1954;

(b) the names of the ports through which these exports are permitted;

(c) the countries to which these exports are allowed; and

(d) the restrictions and conditions subject to which these exports are permitted?

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

(a) About 18,000 tons of hand-picked selected groundnuts and about 54,000 tons of groundnut oil have been released for export during the calendar year 1954. The quotas released are valid for shipment till the end of March, 1955.

(b) Bombay, Calcutta, Cochin, and ports in Madras and Saurashtra States.

(c) Groundnut oil is allowed to be exported to all destinations except South Africa. A quota of 8,000 tons for hand-picked selected groundnuts released in March, 1954 was available for export to dollar countries. The remaining quota of 10,000 tons released in November, 1954 can be utilised for export to all destinations, except South Africa.

(d) Exports of hand-picked selected groundnuts released in March, 1954 were allowed by established shippers who exported hand-picked selected groundnuts to dollar countries during any one of the calendar years from 1951 to 1953, equal to 50 per cent. of their shipments to dollar countries. The quota released in November, 1954 has been distributed amongst shippers on the basis of shipments effected by them to all countries during any one of the calendar years 1951 to 1953, equal to 40 per cent. of the shipments made by them to all destinations. Quotas for shippers who exported during 1949 and 1950 have not yet been determined.

Groundnut oil is allowed for export by established shippers of groundnut and groundnut oil on the basis of their shipments during any one of the four financial years ending March, 1952. Maximum allotment to

an individual shipper was 400 tons. This has been raised to 600 tons in respect of a quota of 28,000 tons released in December, 1954. Minimum allotment to an individual shipper is five tons.

#### EVACUEE HOUSES

**661. Sardar Hukam Singh:** Will the Minister of Rehabilitation be pleased to state the number of evacuee houses in possession of Government servants in various States at present?

**The Deputy Minister of Rehabilitation (Shri J. K. Bhonsle):** Information relating to the number of evacuee houses which are in possession of Government Servants in various States, is not readily available. Its collection will involve an amount of labour which would not be commensurate with the result to be achieved.

#### KOREAN PRISONERS OF WAR

**662. Shri S. N. Das:** Will the Prime Minister be pleased to state whether all the Korean ex-prisoners of war who had opted for Mexico and South Korea have been repatriated?

**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru):** Of the 88 ex-prisoners of war originally brought from Korea, one has since been repatriated to China. The remaining 87 are still in India.

#### DRIED FRUITS

**663. Shri Dhusiya:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether dried fruits are allowed to be imported from Honkong and China;

(b) what quantity, if any, was allowed in 1952-53 and 1953-54;

(c) if not, the reasons therefor; and

(d) whether Government will consider the desirability of such import in the near future?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):**  
(a) Yes, Sir.

(b) A statement is attached. [See Appendix IV, annexure No. 55.]

(c) and (d). Do not arise.

#### TRADE WITH INDO-CHINA

**664. Shri S. N. Das:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether trade potentials between India and any of the Associated States of Indo-China and possibility of mutual commercial relationship have been studied by Government;

(b) if so, the important aspects of the question studied and results accruing therefrom;

(c) whether any formal or informal talks in this regard have been carried on so far; and

(d) the names of the Indian articles which have any prospect of being exported to those countries?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** (a) to (d). A detailed study of the possibilities of increasing trade between India and any of the States of Indo-China has not yet been made. From past statistics, it appears that there is scope for exports of jute manufactures, tobacco, machinery, cordage and rope, rubber manufactures, metals and metal products. An objective study will be possible when conditions stabilise in this region.

#### BONE-GRINDING FACTORIES

**665. Shri Ganpati Ram:** Will the Minister of Commerce and Industry be pleased to state:

(a) the total number of Bone Grinding Factories in India and the location of each, State-wise;

(b) the comparative figures during the last five years so far as production, consumption, export and import of bone manures are concerned; and

(c) the steps, if any, taken by Government to develop this industry?

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

(a) There are 84 bone-grinding fac-

ories in India. A list of these factories showing their location, State-wise, is attached. [See Appendix IV, annexure No. 56.]

(b) *Production.*—Accurate figures of production are not available. It is estimated that 30,000 to 35,000 tons of bone-meal is produced in India per annum.

*Consumption.*—The entire bone-meal produced in the country is consumed. The consumption is, therefore, of the order of 30/35,000 tons per annum.

*Exports.*—The export of bone-meal (i.e., bones crushed to pieces smaller than 3/32") and uncrushed bones is not allowed. Bonegrist and crushed bones of the following specifications are allowed for export by Established shippers and Crushers:—

*Bonegrist.*—Bone pieces passing through 3/16" mesh holes and resting on 3/32" Maximum length of the pieces not exceeding 2"

*Crushed Bones.*—Bone pieces passing through 7/8" mesh holes and resting on 3/16" Maximum length of the pieces not exceeding 2"

The figures of export of bones for manurial purposes during the last five years are given below:—

Year	Quantity in tons Value in '000' of Rs.	
	Bones for manurial purposes	
	Quantity	Value
1950-51	19,920	68.32
1951-52	2,286	8.73
1952-53	259	97
1953-54	942	2.65
1954-55	163	51
April-September		

*Imports.*—There is no import of bone-meal, raw bones, crushed bones or bone-grist. The internal production is enough to meet the requirements.

(c). The Government have approved the setting up of three new bone mills, the particulars of which are given below:—

Name	Location	Capacity Per annum tons
1. M/s. Raj Traders Ltd., Kotah Jaipur	(Rajasthan)	8,220
2. M/s. Knit Bone & Glue Works, Rajputana.	Rajpura.	2,400
3. M/s. Faridabad Bone Mill.	Faridabad.	18,320

Steps have been taken to develop a plant called a Bone Digester on the model of a similar one obtained from Japan. This Digester is meant for use in rural areas in order that bones may be steam-coked and crushed into bone-meal, nearer the sources of their availability. State Governments are taking steps to popularise this Digester. The existing undertakings in this line are encouraged to undertake manufacture of glue and gelatine.

#### N.E.S. BLOCKS

**666. Dr. Satyawadi:** Will the Minister of Planning be pleased to state:

(a) the amount allotted during 1954-55 to each Community Project and N.E.S. Blocks in the Punjab, Pepsu and Himachal Pradesh; and

(b) the amount spent on these Projects so far?

**The Deputy Minister of Planning (Shri S. N. Mishra):** (a) The allotment of funds for the programme is made for a 3 year period. The phasing of expenditure for each year is made by the State Governments. The provision made in the State Budgets for 1954-55 is not available.

(b) The amount spent in each State upto 30th June, 1954 was as under:—

#### Punjab

For four Community Projects, 7 Community Development and 7 N.E.S. Blocks. Rs. 46.85 Lakhs.

#### PEPSU

For 1 Community Project, 1 Community Development and 4 N.E.S. Blocks—Rs. 12.82 Lakhs.

#### Himachal Pradesh

For 1 Community Project, 2 Community Development and 4 N.E.S. Blocks. Rs. 24.61 Lakhs.

#### GRANTS TO TRAVANCORE-COCHIN

**667. Shri Achuthan:** Will the Minister of Commerce and Industry be pleased to state the total amount (grants and loans, separately) given to Travancore-Cochin State in 1953 and 1954 (upto the 30th September) under each of the following heads:—

(i) Khadi

(ii) Small scale industries, and

(iii) handloom?

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** (i) to (iii). A statement is attached. [See Appendix IV, annexure No. 57.]

#### CENTRAL WATER AND POWER COMMISSION

**668. Shri Randaman Singh:** Will the Minister of Irrigation and Power be pleased to state:

(a) the value of orders placed till the 31st October, 1954 by the Central Water and Power Commission with the following firms:—

(i) Messrs. William Jacks & Co., and

(ii) Messrs. Blackwood Hodge & Co.;

(b) how much of the orders have been executed;

(c) whether it is a fact that a large number of orders are still pending with the firms; and

(d) if so, the reasons therefor?

**The Deputy Minister of Irrigation and Power (Shri Hathi):** The information is being collected and will be laid on the Table of the House as soon as possible.

**INDEX  
TO  
LOK SABHA DEBATES—PART I**

Vol. VI—No. 18.  
9th CEMBER, 1954

**ABDUCTION—**  
Question re—  
Recovery of abducted women.  
1203-04.

**ABDULLABHAI, MULLA—**  
Question by—  
Unemployment in Madhya Pra-  
desh. 1227.

**ACHUTHAN, SHRI—**  
Question by—  
Grants to Travancore-Cochin. 1244.  
High Power Transmitter. 1206-07.

**AID(S)—**  
Question re—  
Financial — to Rajasthan. 1197-  
98.  
See also "Grant(s)".

**AIRCRAFT—**  
Question re—  
Sale of unused —. 1198-99.

**ALL INDIA KHADI AND VILLAGE  
INDUSTRIES BOARD—**  
Question re—  
Gram Udyog (ग्राम उद्योग) 1234-35.

**ALL INDIA RADIO—**  
See "Radio, All India".

**ALWAYE—**  
Question re—  
Monazite. 1186-87.

**AMERICA, UNITED STATES OF—**  
Question re—  
Silk goods. 1225.

**AMMUNITION—**  
Question re—  
Ammunition. 1232.

**ASSAM—**  
Question re—  
Aviation spirit. 1201.  
Coal. 1197.

**AUTOMOBILES—**  
Question re—  
Vehicles. 1236.

**AVIATION SPIRIT—**  
Question re—  
Aviation spirit. 1201.

**AZAD, SHRI BHAGWAT JHA—**  
Question by—  
Radio artistes. 1218-19.  
Sale of unused aircraft. 1198-99.

**B**

**BAHADUR SINGH, SHRI—**  
Question by—  
Music competition. 1229.  
Nationalisation of transport. 1223.

**BHAKRA-NANGAL PROJECT—**  
Question re—  
Bilaspur merger. 1216.

**BIHAR—**  
Question re—  
Coal. 1197.

**BILASPUR—**  
Question re—  
— merger. 1216.

**BOMBAY—**  
Question re—  
Cashewnuts. 1189-91.

**BONE-GRINDING FACTORIES—**  
Question re—  
Bone-grinding factories. 1241-42.



**BONE-MEAL—**

Question re—

Bone-grinding factories. 1241-43

**BOSE, SHRI P. C. —**

Question (Supplementary) by—

Tata Iron and Steel Company  
1200.

**BRAHMAPUTRA RIVER COMMISSION (FLOODS)—**

Question re—

Nadi Ayog. (नदी आयोग) 1221-22.

**BROADCASTING—**

Question re—

Radio artistes. 1218-19

**BUILDINGS—**

Question re—

Supreme Court —. 1237-38

C

**CAPITAL, FOREIGN—**

Question re—

Tea industry. 1233.

**CASHEWNUTS—**

Question re—

Cashewnuts. 1189-91.

**CEMENT FACTORY—**

Question re—

Vindhya Pradesh men cement ka  
karkhana. (विन्ध्य प्रदेश में सीमेंट का  
कारखाना) 1227-28.

**CENTRAL WATER AND POWER COMMISSION—**

Question re—

Central Water and Power Com-  
mission. 1244.

Kosi nadi ka niyantran. (कोसी नदी  
का नियन्त्रण) 1230-31.

**CEYLON—**

Question re .

Cloth. 1219-20.

**CHAKRAVARTTY,  
RENU—**

SHRIMATI

Question (Supplementary) by—

Machines for small scale indus-  
tries. 1221.

**CHARAK, TH. LAKSHMAN SINGH—**

Question by —

Electricity. 1231.

States flood control boards. 1191—  
1193.

**CHAUDHARY, SHRI G. L.—**

Question by—

Cork se bani hui vastuyen. (कार्क  
से बनी हुई वस्तुएं) 1225.

**CHAUDHRI, SHRI T. K. —**

Question by —

Documentary films and newsreels.  
1229.

Synthetic petroleum. 1231.

Uranium ore prospecting. 1201-02.

**CHETTIAR, SHRI T. S. A.—**

Question (Supplementary) by—

Advanced training to engineers.  
1208.

Clock factory. 1216.

States flood control boards. 1193.

Technology ki Pradeshik Sans-  
thayen. (टेकनालजी की प्रादेशिक  
संस्थाएँ) 1186.

**CHILDREN—**

Question re—

Recovery of abducted women.  
1203-04.

**CHINA—**

Question re—

Delegation of engineers to —.  
1226.

Dried fruits. 1240-41.

**CHLORIDES—**

Question re—

Monazite. 1186-87.

**CHOWDARY, SHRI C. R.—**

Question by—

Groundnut and groundnut oil.  
1238—40.

**CHOWDHURY, SHRI N. B.—**

Question by—

D.V.C. 1233.

Second Five Year Plan. 1233-34.

**CITIZENSHIP—**

Question re—

Korean prisoners of war. 1191.

**CLOCK MANUFACTURING FACTORY—**

Question re—

Clock factory. 1215-16.

**CLOTH—**

Question re—

Cloth. 1219-20.

**COAL—**

Question re—

Coal. 1197.

**COKE OVEN GAS—**

Question re—

Coke Oven Gas. 1224-25.

**COLLIERY(IES)—**

Question re—

Coal. 1197.

**COMMITTEE(S)—**

Question re—

Bilaspur merger. 1216.

Sindri Fertilizer Factory. 1210-12.

Stores Purchase —. 1193.

Typewriters (टाइपराईटर्स) 1216—18.

**COMMUNITY PROJECTS—**

Question re—

N.E.S. Blocks. 1243-44.

**COMPANY(IES)—**

Question re—

Tata Iron and Steel —. 1199-1200.

Tinplates. 1207-08

**COMPENSATION—**

Question re—

Evacuee property. 1226

**CONSUMPTION—**

Question re—

Oon (ऊन) 1196.

**CORK PRODUCTS—**

Question re—

Cork se bani hui vastuyen (काँक  
से बनी हुई वस्तुएं) 1225.

**COTTAGE INDUSTRY—**

Question re—

Gram udhyog (ग्राम उद्योग) 1234-35

Machine for small scale industries.  
1220-21.

Show rooms in embassies. 1204-05.

**D**

**DABHI, SHRI—**

Question by—

Clock factory. 1215-16

Stores Purchase Committee. 1193.

Synthetic petroleum. 1231.

**DAMODAR VALLEY CORPORATION—**

Question re—

D.V.C. 1233.

**DAS, SHRI B. K.—**

Question (Supplementary) by—

States flood control boards. 1193.

**DAS, SHRI S. N.—**

Question by—

Korean prisoners of war. 1240.

Nadi Aayog (नदी प्रयोग) 1221-22.

State industrial undertakings.  
1232.

Trade with Indo-China. 1241.

University of Malaya. 1228.

**DAS, SHRI SARANGADHAR—**

Question by—

Machines for small scale industries.  
1220-21.

**DAS, SHRI SARANGADHAR—contd.**

Question by—contd.

Tata Iron and Steel Company.  
1199-1200.

Question (Supplementary) by—  
Show rooms in embassies. 1205  
States flood control boards. 1192.

**DASARATHA DEB, SHRI—**

Question by—

Loan to displaced persons in Tri-  
pura. 1227.

**DELEGATION—**

Question re—

— of engineers to China. 1226.

**DELHI—**

Question re—

Electricity. 1231.

High Power Transmitter. 1206-07.

**DEOLALIKAR, SHRI G. B.—**

Question re—

Supreme Court buildings. 1237-  
38.

**DESIGN ENGINEERING—**

Question re—

Advanced training to engineers.  
1208.

**DEVELOPMENT SCHEMES—**

Question re—

Local development programme.  
1236-37.

**DHUSIYA, SHRI—**

Question by—

Dried fruits. 1240-41.

**DISPLACED PERSONS —**

Question re—

Evacuee property. 1226.  
Loan to — in Tripura. 1227.

**DOCUMENTARY FILMS—**

See "Film(s)".

**DWIVEDI, SHRI M. L.—**

Question by —

Ford pratishthan dal (sifarisen)

(फोर्ड प्रतिष्ठान दल सिफारिशें) 1208-09.

Gram udyog (ग्राम उद्योग) 1234-35.

Koria yudhbandi (कोरिया युद्धबन्धः)

1235-36.

**DWIVEDI, SHRI M. L.—contd.**

Question by—contd.

Kosi Nadi ka niyantran. (कोसी नदी  
का नियंत्रण) 1230-31.

Pakistan men Petrol ke Licenson  
'ka rud kiya jana. (पाकिस्तान में  
पेट्रोल के लाइसेंसों का रद्द किया  
जाना) 1236.

Technology ki Pradeshik Sanstha-  
yen. (टेक्नालॉजी के प्रादेशिक संस्थायें)

1185-86.

Question (Supplementary) by—

Typewriters. (टाइपराईटर्स) 1217.

E

**ELECTRICITY—**

Question re—

Electricity. 1231.

**EMBASSY (IES)—**

Question re—

Show rooms in —. 1204—06.

**ENGINEER(S)—**

Question re—

Advanced training to —. 1208.

Delegation of — to China. 1226.

Steel experts. 1222-23.

**EROSION—**

Question re—

Sea —. 1224.

**EVACUEE HOUSE(S)—**

Question re—

Evacuee houses. 1240.

Muslim —. 1231.

**EVACUEE PROPERTY—**

Question re—

Evacuee property. 1226.

**EXPENDITURE—**

Question re—

Ford pratishthan dal (sifarise).

(फोर्ड प्रतिष्ठान दल सिफारिशें)

1208-09.

- EXPENDITURE—contd.**  
 Question re—contd.  
 High Power Transmitter. 1206-07.  
 Kosi nadi ka niyantran. (कोसी नदी का नियन्त्रण) 1230-31.  
 N. E. S. Blocks. 1243-44.
- EXPERT(S)—**  
 Question re—  
 Ispat sanyantra. (इस्पात संयंत्र) 1223.  
 Steel —. 1222-23.
- EXPERTS, FOREIGN—**  
 Question re—  
 Steel plant. 1187-89.
- EXPORT(S)—**  
 Question re—  
 Cloth. 1219-20.  
 Groundnut and groundnut oil. 1238-40.  
 Oon. (ऊन) 1196.  
 Pepper. 1212-14.
- F**
- FACTORY(IES)—**  
 Question re—  
 Bone-grinding —. 1241-43.  
 Clock —. 1215-16.
- FERTILISER—**  
 Question re—  
 Sindri — Factory. 1210-12.
- FILM(S)—**  
 Question re—  
 Documentary —. 1230.  
 Documentary — and newsreels. 1229.
- FIRMS, FOREIGN—**  
 Question re—  
 Sale of unused aircraft. 1198-99.
- FIVE YEAR PLAN, SECOND—**  
 Question re—  
 Financial aid to Rajasthan. 1197-98.  
 Second Five Year Plan. 1233-34.
- FLOOD(S)—**  
 Question re—  
 Aviation spirit. 1201.  
 — control. 1194.  
 Nadi Ayog. (नदी आयोग) 1221-22.  
 States — control boards. 1191-93.
- FORD FOUNDATION TEAM—**  
 Question re—  
 Ford pratishthan dal (sifarisen). (फोर्ड प्रतिष्ठान दल सिफारिशें) 1208-09.
- FOREIGN COUNTRY(IES)—**  
 Question re—  
 Cork se bani hui vastuyen. (कार्क से बनी हुई वस्तुएं) 1225.  
 Show rooms in embassies. 1204-06.
- FRUITS, DRIED—**  
 Question re—  
 Dried fruits. 1240-41.
- G**
- GANGA RIVER COMMISSION (FLOODS)—**  
 Question re—  
 Nadi Ayog. (नदी आयोग) 1221-22.
- GANPATI RAM, SHRI—**  
 Question by—  
 Bone-grinding factories. 1241-43.
- GERMANY—**  
 Question re—  
 Tata Iron and Steel Company. 1199-1200.
- GHANI OIL—**  
 Question re—  
 — industry. 1222.
- GIDWANI, SHRI—**  
 Question by—  
 Bilaspur merger. 1216.  
 Electricity. 1231.  
 Slum clearance. 1194-95.  
 Question (Supplementary) by—  
 Stores Purchase Committee. 1193.

**GOVERNMENT EMPLOYEES—**

Question re—  
Evacuee houses. 1240.

**GOVIND DAS, SETH—**

Question by—  
Oon. (ऊन) 1196.  
Typewriters. (टाईप राईटर्स)  
1216—18.

Question (Supplementary) by—  
Steel plant. 1188.

**GRANT(S)—**

Question re—  
Clock factory. 1215-16.  
— to Travancore-Cochin. 1244.

**GROUNDNUT—**

Question re—  
— and — oil. 1238—40.

**GURUPADASWAMY, SHRI M. S.—**

Question by—  
Advanced training to engineers.  
1208.

**H**

**HANDICRAFTS—**

Question re—  
Show rooms in embassies.. 1204—  
06.

**HANDLOOM—**

Question re—  
Grants to Travancore-Cochin.  
1244.

**HANDLOOM CLOTH—**

Question re—  
Cloth. 1219-20.

**HEM RAJ, SHRI —**

Question by—  
Ammunition. 1232.

**HINDI—**

Question re—  
Typewriters (टाईप राईटर्स) 1216—18.

**HONGKONG—**

Question re—  
Dried fruits. 1240-41.

**HOUSE(S)—**

Question re—  
Evacuee —. 1240.  
Muslim evacuee —. 1231.

**HUKAM SINGH, SARDAR—**

Question by—  
Evacuee houses. 1240.  
Monazite. 1186-87.  
Muslim evacuee houses. 1231.  
Sindri Fertilizer Factory. 1210.  
Question (Supplementary) by—  
Sindri Fertilizer Factory. 1210-11.

**L**

**IBRAHIM, SHRI—**

Question by—  
Evacuee property. 1226.

**ILMENITE—**

Question re—  
Valuable minerals. 1223-24.

**IMPORT(S)—**

Question re—  
Ammunition. 1232.  
Cashewnuts. 1189—91.  
Cork se bani hui vastuyen. (क.कं  
से बनी हुई वस्तुएं) 1225.  
Dried fruits. 1240-41.

**INDIAN(S)—**

Question re—  
Pakistan men Petrol ke Licenson  
ka rud kiya jana. (पाकिस्तान में  
पेट्रोल के लाइसेंसों का रद्द किया  
जाना) 1236.

**INDIAN MINING ASSOCIATION—**

Question re—  
Coal. 1197.

**INDIAN RARE EARTHS AND MONA-  
ZITE PLANT LIMITED—**

Question re—  
Monazite. 1186-87.

**INDO-CHINA—**

Question re—  
Trade with —. 1241.

**INDUSTRY(IES)—**

**Question re—**

Cashewnuts. 1189—91.

Ghani oil industry. 1222.

Tea —. 1233.

*Technology ki Pradeshik Sanstha-*  
*yen.* टेक्नालाजी के प्रादेशिक  
संस्थायें) 1185-86.

**INSTITUTE(S)—**

**Question re—**

Machines for Small Scale Indus-  
tries. 1220-21.

*Technology ki Pradeshik Sanstha-*  
*yen.* (टेक्नालाजी के प्रादेशिक  
संस्थायें) 1185-86

**IRON AND STEEL—**

**Question re—**

*Ispat sanyantra.* (इस्पात संयंत्र)  
1223.

Steel experts. 1222-23.

**IRRIGATION—**

**Question re—**

Second Five Year Plan. 1233-34.

**IYYUNNI, SHRI C. R.—**

**Question by—**

Sea erosion. 1224.

**J**

**JAIPAL SINGH, SHRI—**

**Question (Supplementary) by—**

Tinplates. 1207.

Uranium ore prospecting. 1202.

**K**

**KAMAL SINGH, SHRI—**

**Question by—**

Tinplates. 1207-08.

**KARNI SINGHJI, SHRI—**

**Question by—**

Financial aid to Rajasthan. 1197-  
98.

**KERALA—**

**Question re—**

High Power Transmitter. 1206-07.

**KESHAVAIENGAR, SHRI—**

**Question (Supplementary) by—**

Slum clearance. 1195.

**'KHADI'—**

**Question re—**

Grants to Travancore-Cochin.  
1244.

**KOREAN WAR PRISONER(S)—**

**Question re—**

Korean Prisoners of War. 1191,  
1238, 1240.

*Korea yudhbandh.* (कोरिया युद्ध-  
बन्ध) 1235-36.

**KOSI CONTROL SCHEME—**

**Question re—**

*Kosi Nadi ka niyantran.* (कोसी  
नदी का नियन्त्रण) 1230-31.

**KRUPP-DEMAG STEEL PROJECT—**

**Question re—**

Tata Iron and Steel Company.  
1199-1200.

**L**

**LICENCE(S)—**

**Question re—**

*Pakistan men Petrol ke Licenon*  
*ka rud kiya jana.* (पाकिस्तान  
पेट्रोल के लाइसेंसों रद्द किया  
जाना) 1236.

**LOAN(S)—**

**Question re—**

*Ford Pratishthan dal (sifarisen).*

(फोर्ड प्रतिष्ठान दल सिफारिशें) 1208-09.

— to displaced persons in Tri-  
pura. 1227.

Slum clearance. 1194-95.

**LOCAL DEVELOPMENT PRO-  
GRAMME—**

**Question re—**

Local development programme.  
1236-37.

M

MACHINERY—

Question re—  
Machines for small scale industries. 1220-21.

MADHYA BHARAT—

Question re—  
Clock factory. 1215-16.

MADHYA PRADESH—

Question re—  
Unemployment in —. 1227.

MAITHON HILL PROJECT—

Question re—  
D.V.C. 1233.

MALAYA UNIVERSITY—

Question re—  
University of Malaya. 1228.

MANUFACTURE—

Question re—  
Ammunition. 1232.  
Typewriters. (टाइपराइटर्स) 1216-18.

MINERALS—

Question re—  
Valuable —. 1223-24.

MISHRA, SHRI BIBHUTI—

Question by—  
Flood control. 1194.  
Synthetic petroleum. 1231.

MISHRA, SHRI L. N.—

Question by—  
Delegation of engineers to China. 1226.

MONAZITE—

Question re—  
Monazite. 1186-87.  
Valuable minerals. 1223-24.

MORARKA, SHRI—

Question by—  
Coke oven gas. 1224-25.  
State industrial undertakings. 1232.

MOTOR VEHICLES—

See 'Automobiles'.

MUSIC COMPETITION—

Question re—  
Music competition. 1229.

MUSLIMS—

Question re—  
— evacuee houses. 1231.

N

NANADAS, SHRI—

Question by—  
Steel experts. 1222-23.  
Tea estates. 1232-33.  
Tea industry. 1233.

NATIONAL EXTENSION SERVICE BLOCKS—

Question re—  
N.E.S. Blocks. 1243-44.

NATIONALIZATION—

Question re—  
— of transport. 1223.

NAYAR, SHRI V. 'P.—

Question by—  
Cashewnuts. 1189-91.  
Pepper. 1212-14.

NEPAL—

Question re—  
Flood control. 1194.

NEWSREELS—

Question re—  
Documentary films and —. 1229.

O

OIL(S)—

Question re—  
Ghani — industry. 1222.  
Groundnut and Groundnut —. 1238-40.

ORISSA—

Question re—  
States flood control boards. 1191-93  
Steel plant. 1187-89.

P

PAKISTAN—

Question re—

*Pakistan men Petrol ke Licenson ka rud kiya jana.* (पाकिस्तान में पेट्रोल के लाइसेंसों का रद्द किया जाना) 1236.

Recovery of abducted women. 1203-04.

PALM TREES—

Question re—

Palm trees. 1228.

PANAGARH AERODROME—

Question re—

Sale of unused aircraft. 1198-99.

PANCHET HILL PROJECT—

Question re—

D.V.C. 1233.

PAREKH, DR. J. N.—

Question by—

Documentary films. 1230.

PEPPER—

Question re—

Pepper. 1212-14.

PETROLEUM—

Question re—

*Pakistan men Petrol ke Licenson ka rud kiya jana.* (पाकिस्तान में पेट्रोल के लाइसेंसों का रद्द किया जाना) 1236.  
Synthetic —. 1231.

PLANNING COMMISSION—

Question re—

Financial aid to Rajasthan. 1197-98.  
Nationalisation of transport. 1223.

PRICE(S)—

Question re—

Coal. 1197.

PRISONERS OF WAR—

See "Korean war Prisoner(s)".

PRODUCTION—

Question re—

Bone-grinding factories. 1241-43.  
Don. (ऊन) 1196.

Pepper. 1212-14.

Tinplates. 1207-08.

PUNJAB—

Question re—

Bilaspur merger. 1216.  
Local Development Programme. 1236-37.  
Nationalization of transport. 1223.

R

RADIO, ALL INDIA—

Question re—

Music competition. 1229.  
Radio artistes. 1218-19.

RADIO ARTISTES—

Question re—

Music competition. 1229.  
Radio artistes. 1218-19.

RAJASTHAN—

Question re—

Financial aid to —. 1197-98.

RAM SUBHAG SINGH, DR.—

Question by—

Synthetic petroleum. 1231.  
Vehicles. 1236.  
Question (Supplementary) by—  
Monazite. 1187.

RANDAMAN SINGH, SHRI—

Question by—

Central Water and Power Commission. 1244.

RAO, DR. RAMA—

Question by—

Valuable minerals. 1223-24.

RAO, SHRI T. B. VITTAL—

Question by—

Coal. 1197.  
Korean prisoners of war. 1238.  
Question (Supplementary) by—  
Stores Purchase Committee. 1238.

RAW MATERIALS—

Question re—

Sindri Fertilizer Factory. 1210.

RECOMMENDATION(S)—

Question re—

Bilaspur merger. 1216.  
*Ford Pratishthan dal (sifarisen).*  
(फोर्ड प्रतिष्ठान दल सिफारिश) 1208-09.  
Stores Purchase Committee. 1193.



REHABILITATION—

Question re—  
D.V.C. 1233.

REHABILITATION FINANCE ADMINISTRATION—

Question re—  
Loan to displaced persons in Tripura. 1227.

REMUNERATION—

Question re—  
Radio artistes. 1218-19.

RENT—

Question re—  
Muslim evacuee houses. 1231.

REPATRIATION—

Question re—  
Korean prisoners of war. 1191,  
1230, 1240.

REPORT(S)—

Question re—  
Sindri Fertilizer Factory. 1210-12.  
States flood control boards.  
1191—93.  
Stores Purchase Committee. 1193

RESEARCH—

Question re—  
Technology ki Pradeshik Sanstha-  
yen. (टेक्नालाजी की प्रादेशिक  
संस्थायें) 1185-86.

RIVER COMMISSIONS—

Question re—  
Nadi ayog. (नदी आयोग) 1221-22.

S

SALE—

Question re—  
— of unused aircraft. 1198-99  
Tea estates. 1232-33.  
Vehicles. 1236.

SAMANTA, SHRI S. C.—

Question by—  
Show rooms in embassies. 1204-06.  
Question (Supplementary) by—  
Clock factory. 1216.  
High Power Transmitter. 1206-07.

SATYAWADI, DR.—

Question by—  
N.E.S. Blocks. 1243-44.  
Silk goods. 1225.

SCHEME(S)—

Coke Oven Gas. 1224-25.  
Kosi nadi ka niyantran. (कोसी नदी  
का नियन्त्रण) 1230-31.  
Slum clearance. 1194-95.  
Unemployment in Madhya Pra-  
desh. 1227.

SCHOLARSHIP(S)—

Question re—  
University of Malaya. 1228.

SCRIPT(S)—

Question re—  
Radio artistes. 1218-19.

SEA EROSION—

Question re—  
Sea erosion. 1224.

SHARMA, SHRI D. C.—

Question by—  
Korean prisoners of war. 1191.  
Local Development Programme  
1236-37.

SHASTRI, SHRI B. D.—

Question by—  
Vindhya Pradesh men Cement ka  
karkhana. (विन्ध्य प्रदेश में सीमेंट का  
कारखाना) 1227-28.

SILK GOODS—

Question re—  
Silk goods. 1225.

SINDRI FERTILIZER FACTORY—

Question re—  
Sindri Fertilizer Factory. 1210-12.

SINGH, SHRI L. JOGESWAR—

Question by—  
Documentary films and newsreels.  
1229.  
Recovery of abducted women.  
1203-04.

**SINGH, SHRI R. N.—**

Question by—  
Ispat sanyantra (इस्पात संयंत्र) 1223.

**SINHA, SHRI NAGESHWAR PRA-  
SAD—**

Question by—  
Supreme Court buildings. 1237-38.

**SINHA, SHRIMATI TARKESHWARI—**

Question by—  
Aviation spirit. 1201.  
Cloth. 1219-20.

**SLUM CLEARANCE—**

Question re—  
Slum clearance. 1194-95.

**SMALL SCALE INDUSTRIES—**

Question re—  
Grants to Travancore-Cochin. 1214  
Machines for —. 1220-21.

**SODHIA, SHRI K. C.—**

Question by—  
Sindri Fertilizer Factory. 1210-12.

**SPICES ENQUIRY COMMITTEE—**

Question re—  
Pepper. 1212-14.

**STAFF ARTISTES—**

Question re—  
Radio artistes. 1218-19.

**STANDARDISATION—**

Question re—  
Typewriters टाइपराईटर्स 1216-18.

**STATE(S)—**

Question re—  
Ammunition. 1232  
N.E.S. Blocks. 1243-44  
— flood control boards. 1191-93.  
Valuable minerals. 1223-24.

**STATE INDUSTRIAL UNDERTAK-  
INGS—**

Question re—  
State industrial undertakings. 1232

**STEEL PLANTS—**

Question re—  
Ispat sanyantra. (इस्पात संयंत्र). 1223.

Steel experts. 1222-23.  
Steel plant. 1187-89.

**STORES PURCHASE COMMITTEE—**

See "Committee(s)"

**STUDENTS—**

Question re—  
University of Malaya. 1228.

**SUBSIDY—**

Question re—  
Slum clearance. 1134-95.

**SUGAR—**

Palm trees. 1228.

**SULPHUR CUM CEMENT FACTORY**

Question re—  
Financial aid to Rajasthan. 1197-98.

**SUPREME COURT BUILDINGS—**

Question re—  
Supreme Court buildings. 1237-38.

**SURVEY—**

Question re—  
Flood control. 1194.

**SYNTHETIC PETROLEUM—**

Question re—  
Synthetic petroleum. 1231.

**T**

**TARIFF COMMISSION—**

Question re—  
Tinplates. 1207-08.

**TATA IRON AND STEEL COMPANY,  
MESSRS.—**

Question re—  
Tata Iron and Steel Company. 1199-1200.

**TEA—**

Question re—  
— industry. 1233.

TEA GARDENS—

Question re—  
Tea estates. 1232-33.

TECHNOLOGY—

Question re—  
Technology ki Pradeshik Sanstha-  
yen. (टेक्नालाजी की प्रादेशिक  
संस्थायें) 1185-86.

TENDER(S)—

Question re—  
Coke Oven Gas. 1224-25.

TEXTILES—

Question re—  
Cloth. 1219-20.

THOMAS, SHRI A. M.—

Question (Supplementary) by—  
Pepper. 1214.

TINPLATES—

Question re—  
Tinplates. 1207-08.

TIWARY, PANDIT D. N.—

Question by—  
Ghani oil industry. 1222  
Palm trees. 1228.  
Synthetic petroleum. 1231.

TRADE—

Question re—  
— with Indo-China. 1241.

TRAINING—

Question re—  
Advanced — to engineers. 1208.  
Uranium ore prospecting. 1201-02.

TRANSMITTER—

Question re—  
High Power —. 1206-07.

TRANSPORT—

Question re—  
Aviation spirit. 1201.  
Nationalisation of —. 1223.

TRAVANCORE-COCHIN—

Question re—  
Grants to —. 1244.

TRIPURA—

Question re—  
Loan to displaced persons in —,  
1227.

TYPEWRITERS—

Question re—  
Typewriters. (टाइपराईटर्स) 1216-18.

U

U. S. FLAMMABLE FABRICS ACT—

Question re—  
Silk goods. 1225.

UNEMPLOYMENT—

Question re—  
— in Madhya Pradesh. 1227.

UNITED STATES OF AMERICA—

See "America, United States of".

UNIVERSITY—

— of Malaya. 1228.

UPADHYAY, PANDIT MUNISHWAR  
DUTT—

Question by—  
Steel plant. 1187-89.

URANIUM ORE—

Question re—  
— prospecting. 1201-02.

V

VELAYUDHAN, SHRI—

Question (Supplementary) by—  
Tata Iron and Steel Company.  
1200.

VINDHYA PRADESH—

Question re—  
Vindhya Pradesh men cement ka  
karkhana. (विन्ध्य प्रदेश में सीमेंट  
का कारखाना) 1227-28.

W

WEST BENGAL—

Question re—  
Aviation spirit. 1201.  
Second Five Year Plan. 1233-34  
States flood control boards.  
1191-93.

INDEX TO DEBATES, PART I, 9TH DECEMBER, 1954

---

MEN—

Question re—

Recovery of abducted —. 1203-  
1204.

WOOL—

Question re—

Con. (कन) 1196.

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LOK SABHA

Thursday, 8th December, 1954

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER in the Chair].

QUESTIONS AND ANSWERS

(See Part I)

12 NOON

MOTION FOR ADJOURNMENT

VIOLATION OF INDIAN TERRITORY BY ARMED PORTUGUESE SOLDIERS

**Mr. Speaker:** I have received notice of an adjournment motion by Dr. N. B. Khare on the violation of Indian territory by armed Portuguese soldiers crossing into the Indian territory near the village called Ain Naka in Belgaum District of the Bombay State and kidnapping an Indian villager named Lusso Narayan Gavas.

The Ministry has given me a note which unfortunately I got a bit late. I shall read the note received from the Ministry. That would clarify facts.

"According to a wireless message received by the District Magistrate, Belgaum, on 8th December from Ratnagiri, our outpost at Banda, near village Ain Naka, has reported an incident on the Goa border. The report is still under investigation. Ain Naka is not easily accessible. Twelve miles have to be covered on foot before the outpost can be reached.

There is a press report also about this incident at Ain Naka. This report states that armed Portuguese soldiers crossed into Indian territory near Ain Naka on the 2nd December afternoon and kidnapped an Indian villager. The Portuguese soldier later released the villager who came back to Ain Naka with one of his teeth knocked out.

Late last evening, another incident which took place at the Daman frontier was reported by telephone by our Liaison Officer in Bombay. According to this report, which is also under investigation, a European Portuguese soldier crossed into Indian territory at Police Chowki No. 13 with an automatic weapon and 24 rounds of ammunition. He was challenged by our police and was captured.

The press report about the incident in Ain Naka on the 2nd December refers to earlier cases of border violations. We have information about one such case. On 18th August, two European Portuguese officials entered Indian territory between customs posts Nos. 55 and 56 near Ain Naka. They were challenged by a customs sepoy. After firing three shots in Indian territory, the Portuguese officials went back to Goa. No one was injured by this firing.

In respect of this earlier incident at Ain Naka, a strong protest was lodged with the Portuguese Legation on the 2nd September. The Legation was informed that suitable measures

[Mr. Speaker]

will be taken if there are any further violations. The Legation has not yet replied to the protest note. There was a question about this incident in Parliament on the 20th September. The facts stated above were given in reply to this question."

On these facts, I think it requires some further elucidation before we can decide about this motion. The place, as stated, is not easily accessible. Perhaps information may not be available. The only thing that can be done at this stage is, it may be held over. In the meanwhile Government may call for information and give it to the House.

**The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru):** That is, any additional information that may be received.

**Mr. Speaker:** Yes. At present, this is postponed. I do not fix any date for this because I do not know when the Government will be in a position to give the information: in any case, before the present session ends.

INDIAN TARIFF (THIRD AMEND-  
MENT) BILL

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** I beg to move for leave to introduce a Bill further to amend the Indian Tariff Act, 1934.

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

"That leave be granted to introduce a Bill further to amend the Indian Tariff Act, 1934."

*The motion was adopted.*

**Shri T. T. Krishnamachari:** I introduce\* the Bill.

HINDU MINORITY AND GUAR-  
DIANSHIP BILL—*concl'd.*

**Mr. Speaker:** The House will now resume further discussion on the motion for concurrence in the recommendation of the Rajya Sabha for reference of the Hindu Minority and Guardianship Bill, 1953, to a Joint Committee. Of the five hours allotted for the discussion of the motion, two hours and five minutes have already been availed of yesterday and 2 hours and 55 minutes now remain. This would mean that the motion shall be put to the vote of the House at about 3 P.M.

Thereafter, the House shall take up the Preventive Detention (Amendment) Bill, 1954 for which 15 hours have been allotted.

We will proceed to take up that motion. I do not think that I need read out that motion. Shri D. C. Sharma, who was on his legs yesterday continue his speech.

**Shri D. C. Sharma (Hoshiarpur):** Yesterday, I said that the definition of the term "Hindu" has been made as comprehensive as possible and that no harm would be done to the minors by restricting the guardians only to three categories.

A point was made yesterday that something wrong was being done in changing the Hindu Law at this time and that the Hindu law was being played with in a spirit which is not very proper and right. I must say that Hindu Law has been something dynamic and it has always been responsive to the changes which have been demanded of it by the new social circumstances and new social situations. If we read the report of the Hindu Law Committee published in 1941, on page 11, we find that a very cogent case has been made for a change in the Hindu law. It has been said that when the author of the *Mitakshara* wanted to change the law in respect of the right

\*Introduced with the recommendation of the President.

of the widow to inherit the property of her son-less husband, he started with the texts of Yajnyavalkya which were favourable to the change. Then, he took up the texts of Manu which were not favourable. Therefore, he by-passed Manu and tried to stand by Yajnyavalkya. In the same way, when he came to other points, he made use of those sources which were favourable to his point of view. As it has been said, the ancient law-givers were making a judicious selection of the texts to suit their needs. Such Hindu law-givers are not available. It is necessary that we should meet the social challenge of the times by amending the laws which have become obsolete and outmoded.

The main point in this law is the welfare of the minor and I think the welfare of the minor has been described in a very efficient manner thus.

"A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property."

On going through this Bill, one finds that several precautions have been taken and every safeguard has been put in to see that the protection of the minor should be the only consideration and that the property should not be wasted or played with in any case.

[MR. DEPUTY-SPEAKER in the Chair].

I would say that there are certain changes which have to be made in this Bill. I would like to suggest these changes.

In the first place I would say that in clause 5(a) the word 'mother' should be further defined so as to

make it clear that the term should not include a step-mother or a divorced mother or a mother who has married again. This is for the obvious reason that when a mother has done anything of that kind, her interest does not remain of the same intensity in her former children.

Again, in the proviso to clause 5 it has been said that a man should not be made a natural guardian "if he has completely and finally renounced the world by becoming a hermit or an ascetic or a perpetual religious student". I would say that if a man has become socially undesirable he should not be permitted to be a natural guardian. A man may be a habitual drunkard or may have developed some other undesirable traits of character. All such persons should be debarred from becoming natural guardians of children.

At the same time I would say this. In clause 7 it is said that mortgage or charge, or transfer by sale, gift, exchange or otherwise of any part of the immovable property of the minor should not be done without the permission of the Court. We are living in times when business is done at a very quick tempo, and I would say that this clause requires to be amended, because sometimes it may be in the interests of the minor to effect the sale of the property at a very short notice. If one wants to have recourse to a court of law it may take a very long time.

Coming to sub-clause (5) of clause 7 I would like to say that it has become the habit of the Government to give references to Acts but not to quote the relevant sections of those Acts. For instance, in sub-clause (3) of clause 7 the Guardians and Wards Act (VIII of 1890) has been mentioned. I would say that this piece of legislation is not only meant for Members of Parliament and lawyers but also meant for the common man. Whenever a reference is made to any other Acts, those Acts should be

[Shri D. C. Sharma]

quoted in full or in *extenso*, so that anybody who wants to read the provisions of the Acts referred to should be able to grasp the full significance of the provisions by looking at this Act.

Coming to clause 9, it has been said—

“Provided that nothing in this section shall be deemed to authorise any person to act as the guardian of the person of the minor for so long the mother is alive etc.”

I believe that a very valuable point was made by Shrimati Jayashri when she said that the powers of the mother should be extended under this clause. For instance it has been said that a mother can be the guardian of a child up to the age of three. She said that the mother should be the guardian of a girl till she is fourteen and of a boy till he is seven. I believe that this also is not the right course to follow. A mother should be put on a par with the father, because I believe that mothers look after their children in as proper a way as the fathers do. I think there may be many Members in this House who will hold with me when I say that mothers are not to be discriminated in any sense of the word—in this Bill or anywhere else. Women have shown their capacity not only for looking after the physical and mental welfare of the children, but they have also shown their capacity for managing the property. I would therefore say that there should be no discrimination made against mothers in this Bill.

One minute more and I have finished. It has been said in sub-clause (3) of clause 9 that “subject to the provisions of this Act, a Hindu widow may, by will, appoint a guardian for any of her minor children in respect of the person of the minor”. I think this provision should

be made subject to certain other conditions so that it is not in any way used wrongly against the minors.

In the end I would say that it is a very simple measure and it makes an attempt to bring our Hindu Law in conformity with the changed spirit of our times and that it does not make any serious departure from those conditions which are prevailing at present; most of the provisions in this Bill are those which have been accepted more or less in our country already. I would therefore commend this Bill for the whole-hearted support of the House.

**Shrimati Sucheta Kripalani** (New Delhi): I rise to support this Bill generally because this is an attempt to codify the law pertaining to guardianship and minority, and I believe a codified law is better than an uncodified law. But I have some general criticisms to offer for the manner in which this Bill has been brought and also I shall give at a later stage my views regarding the details of the clauses.

From the opinions circulated to us we find that there have been two general criticisms which are of considerable force. One is that we are attempting to pass the Hindu Code by dribbles, in a piecemeal fashion. This Bill is a part of the Hindu Code Bill. If we really want to improve the law of the land, we should bring a comprehensive integrated Hindu Code covering all aspects of our national life and our personal law, and that should be passed. This kind of piecemeal legislation does not give us an opportunity to study the different aspects of the law in a proper fashion. I am sure some loose ends will be left after the passing of the various laws—Marriage and Divorce, Minority and Guardianship, Succession and others—and at a later stage amendments will have to be brought in to integrate them. That is very necessary because each law will affect the other law.



For instance, the Marriage Law will affect the Law of Succession.

It is a great pity that the Congress Party having such a tremendous majority did not think it fit to pass the integrated Hindu Code. I was a Member of the Parliament at that time and I saw the manner in which the Hindu Code Bill was scuttled in this House. I am surprised when I see that when the Government wants to pass the motion every year to extend the Preventive Detention Act, it is passed by an overwhelming majority. Similarly the Criminal Procedure Code (Amendment) Bill with all its various obnoxious features was passed in spite of the fact that many Congress Members opposed it. But when it comes to the Hindu Code, that cannot be passed, that must be brought in this defective, back-door manner. This aspect of the manner in which this Bill has been brought, I fail to grasp. I feel that in this matter the Congress Party is not acting in a courageous manner.

**Shri S. S. More (Sholapur):** There is a fifth column of Mr. Chatterjee inside the Congress.

**Shrimati Sucheta Kripalani:** I think Mr. Chatterjee has many followers in the Congress.

**Shri N. C. Chatterjee (Hooghly):** I have a few supporters.

**Shri S. S. More:** He has a larger following there than here.

**Shrimati Sucheta Kripalani:** You want to bring about social reform. But you hesitate, halt and do not go to the logical end. That is why we have this defective Bill. But whatever it is, I welcome it because even a halting step is a step forward. Then there has been another criticism which requires to be considered. Why do we not have one civil code for all the people of India if we want reform? We believe that religion is a personal and individual matter. Our social life should be governed under one law. Therefore, we should

have one Civil Code governing the lives of all citizens of India. Here too, we want to do a thing, but we have not got the courage to go far enough. One criticism is that such communal legislation is against our Constitution. It is against one of the Directive Principles of the State.

When we are bringing such a faltering measure, I do not understand why we do not bring some amendments to the Guardians and Wards Act instead of bringing a new Bill. Certain amendments could have been introduced and some new principles could have been added. Therefore, though I welcome the Bill, I am very conscious of the defects and very conscious of the weaknesses of the Congress Party in bringing this halting Bill.

I would now like to go into details. The principles embodied in the Bill are generally acceptable to me, but there are many defects in the Bill. I do hope that the Joint Select Committee will bring in considerable amendments.

As the time is limited, I shall only touch upon a few important points that appeal to me.

The first point is that the age of a minor in this Bill and other Bills is different. In some Acts the age of majority stands at 18 and in some other Acts the age of majority is 21. I do not see why the age of majority is not 21 under all the different Acts. That would simplify the laws and make it easy for people.

Then in clause 2 we have defined the people to whom this Act would apply. I think this definition is very cumbersome...

**Mr. Deputy-Speaker:** If the average age of majority is 23 and a man is at the age of 21, it can well be extended.

**Shrimati Sucheta Kripalani:** Even in this Bill under certain circumstances he does not become a major

[Shrimati Sucheta Kripalani]

till 21 and in other circumstances he becomes a major at 18.

In clause 2, we have defined the people to whom the Act would apply. I consider that this definition is very cumbersome. I would suggest that we should define it in this way, that "except for the communities mentioned, all persons domiciled in India may be governed by this Act". That would simplify the wording of this clause.

One favourable aspect of this Bill is that under this Bill the women's position has been improved as a guardian. In this Bill an attempt has been made to give the mother and father the same status and put them on an equal footing. Clauses 5 and 9 give women the right of guardianship as well as the right to appoint a guardian under will. In clause 5, woman has been given certain preferences. For instance, women would be given the custody of a child under three years of age. For an illegitimate child, the first guardian is the mother and the second guardian is the father. But I think there is scope for improvement. I do not think that the age of a child should be below three whose custody should be with the mother. A mother can look after a small child much better than a father. Therefore, I would suggest that the age of the child should be raised from three to ten for the custody of the mother.

Then in clause 9, a mother has been given the right to appoint a guardian by will for the person of the child and not for the property. I do not at all understand why this distinction has been made. Perhaps the argument that would be put forward would be that women in India do not know how to manage property; they have not sufficient knowledge; therefore they should not have the right to appoint guardians for the property of the child. Here, the woman is not going to manage the

property. She is merely going to appoint a guardian for the management of the property. The woman knows best who would look after the best interests of the child. She would be in a position to find amongst her friends and relations the person who will really look after the child. Therefore, it is quite improper not to give the woman the right to appoint a guardian for managing the property of the child. I do hope that the Joint Select Committee would rectify this defect in clause 9.

I have another small change to suggest in clause 9. In clause 9 in section (3), you say, "subject to the provisions of this Act, a Hindu widow may, by will, appoint a guardian." Now, we have here provided for an illegitimate child also. The word 'widow' may not cover all cases. Therefore, we should substitute the word 'mother' or some other word so as to cover the cases of both legitimate as well as illegitimate children. No provision has been made in the Bill for cases where the woman remarries or separates from the husband by divorce or is physically unfit. Therefore, some provision should be made for that also. Besides, we should also take into consideration the question of step-mother. Whether the step-mother is the right person to be a guardian is a very controversial matter.

**Mr. Deputy-Speaker:** The term 'mother' does not include step-mother.

**Shri S. S. More:** It includes.

**Shri Raghavachari (Penukonda):** Generally in Hindu law it includes; but here, they have simply said 'mother'. I am not a lawyer to know whether 'mother' includes 'step-mother' or not. I hope the Select Committee will look into it.

**Shrimati Sucheta Kripalani:** Now I come to the question of natural guardians. In clause 5, we have defined natural guardians as the father, mother.....

**Mr. Deputy-Speaker:** Is it so provided in the General Clauses Act that 'mother' includes 'step mother'?

**Shri Bogawat (Ahmednagar South):**  
Yes.

**Mr. Deputy-Speaker:** Whenever a special statute is enacted, it is excluded from general principles of Hindu law, where 'mother' does not include 'step-mother'. So far as that law is concerned, it is excluded. It may be that for other purposes of the Hindu law, 'mother' may include 'step-mother'.

**Shri S. S. More:** There is no specific provision.

**Mr. Deputy-Speaker:** Any provision of Hindu law is abrogated by this. The over-riding effect of this Act is there. Any text covered by Hindu law, or any custom or usage in force immediately before the commencement of this Act shall cease to have effect. So, so far as minority and guardianship are concerned, the rights are all abrogated.

**Shrimati Sucheta Kripalani:** It is for the lawyers to decide, and I hope the Law Minister will take note of this.

I was saying that in clause 5, the natural guardians are defined. The only natural guardian recognised by this Act would be the father or the mother. Those who have framed the law have failed to take into consideration the existing Hindu society. In our society to-day, the joint family system may be very bad, but it still persists. That system has got some good features also. In our society, when children are left without proper guardians, they are looked after by the uncles, by the elder brothers and by so many other male members of the family. And in the Indian society as it is situated today, we have got unemployment, our income is not very high, the financial needs are there. With all these things, it is absolutely imperative that certain members of the family should be looked after by

other members. It is a kind of socialistic system in a way, in a crude form maybe, that in a joint family the weakest members of the family are looked after. Now, here, we have not recognised the joint family at all. In framing this law we have merely taken into consideration the position of the father and the mother. So, under this Act, only the father and the mother would be the natural guardians. This, I think, would go against the interests of the minor. Therefore, I think, that the list of those who should be eligible to be natural guardians should be increased. The group of people to be eligible to be natural guardians should be enlarged than what is defined in this Bill. I think if we retain the Bill in its present form, the result would be that many children would be left without any proper guardians, and it will be difficult for the Courts even to find suitable guardians for such children.

Now, again, the same defect comes when we define the powers of natural guardians. In clause 7, the powers of the natural guardians have also been limited in the matter of sales, mortgage and transfer of property. I do recognise the fact that the guardians are often in a position to cheat the minors and to misuse the property. We have to safeguard against that, it is true, but at the same time, if such restrictions are placed, then the guardians will not be in a position to effect sale or transfer in a quick manner—because the essence of a sale or transfer is that it should be done quickly. When a buyer comes, he cannot indefinitely go on waiting, and we know that legal proceedings are so lengthy that if you apply for the permission of the Court, it may take a very long time. Therefore, it may in fact turn out to be impossible for these guardians to sell or transfer the property when the need arises.

Then, after all, what do you safeguard by this measure? You are putting this safeguard only for immovable property. Nowadays with the

[Shrimati Sucheta Kripalani]

abolition of zamindari etc., immovable property is not much. Very often, in a property you will find movable property forms the larger share, like shares, debentures etc. Now, the guardian can do away with that larger share of the property, but when it comes to immovable property, he will have to take the permission of the Court. Therefore, I feel you are not protecting the interests of the minor very much by putting in this clause.

Then, what happens. Suppose he goes to the Court for permission to sell. It will be an *ex parte* statement. The guardian goes and he gets the permission of the Court and sells. In such a case, the right of the minor for future action is barred. If he sells without the permission of the Court, at a later stage the minor can go against the guardian and do whatever he likes. He can take some steps. But now, by an *ex parte* representation, the guardian goes to the Court, gets permission to sell and sells. After he has sold, the minor child has no right to do anything. He cannot take any steps against the guardian.

Then, there are other difficulties. For instance, the immovable property may be scattered in two or three States. If it is scattered over two or three States, the guardian will have to go from State to State to the different Courts of the different States in order to get permission for selling or transferring. There are very many difficulties. This will result in raising the cost. It will result in an increase of the Court work, and it will also result in making it more difficult to find proper guardians. What will happen is lawyers will make hay. Ordinarily, people will not like to become guardians with all these difficulties, and most often probably the Courts will appoint lawyers to become the guardians of the children.

**Pandit Thakur Das Bhargava** (Gurgoan): Lawyers have not got so much leisure.

**Shrimati Sucheta Kripalani:** There are many lawyers who have plenty of leisure.

So, generally, these are my criticisms. There are certain other criticisms with which I do not wish to take up the time of the House at the moment. I generally support the Bill, but I find there are many defects. It has not been carefully drafted. I hope the joint Select Committee will give it serious thought and make suitable changes.

**Shri N. C. Chatterjee:** I was obliged to the hon. Law Minister for suggesting my name on the Select Committee, but I am sorry I could not accept it because of my fundamental objection to the Hindu Code Bill as it is coming. And he has candidly stated that this is really one of the instalments of the Hindu Code Bill.

We are sorry that the Law Minister, Mr. Biswas, is not here. We wish him speedy recovery and complete restoration to health. At the same time, we are happy that a distinguished votary of them like Mr. Pataskar is now occupying the position of Law Minister, and I am sure he will bring a detached mind to bear on these questions.

I am one of those who are genuinely convinced that this kind of communal legislation, of communal Codes, are really repugnant to the Constitution of India, both in letter and spirit. I do not think that there is any occasion for infringing article 44 of the Constitution. You know, Sir, the makers of the Constitution solemnly set a very glorious objective in front of the country and in front of Parliament—and that is in article 44. Article 44 clearly states in unequivocal terms that the State is enjoined to strive, to provide, to secure for the citizens of India a uniform civil code throughout the territory of India. You would remember the words "a uniform civil code throughout the territory of

India". Daily the Congress leaders are harping on the evils of communalism. The Prime Minister of India is ranting on the menace of communalism. What business has this Congress Government to bring up a communal legislation, a communal Code of this character, directly infringing the directive principle of the Constitution? What is the difficulty? If you honestly feel the necessity for any codification or law reform or having a uniform civil Code applicable to all citizens, it should be a legislation which is applicable to all citizens.

It may be stated that it does not make it illegal because you are only infringing a directive principle, but as the Supreme Court has pointed out, directive principles should be taken into account, because the "State" means Parliament and all the Legislatures functioning in India. "State" means all the organs of the State, and they are enjoined to have a desirable objective in view. Otherwise, you make these directive principles mere pious, important platitudes. They are not meant for that purpose. But, I go further and I do maintain that this kind of communal legislation—marriage law for one community or divorce law for one community, or fixation of a particular age for marriage for Hindu boys as distinguished from Muslim boys, a particular age of minority for one community and not for another—is an infringement of article 14 of the Constitution, also of article 15 of the Constitution. And they are fundamental rights! I would be very happy if the hon. Law Minister would devote some attention to this important aspect of it.

You know, Sir, that any legislation in any way abridging the fundamental rights is completely void. It has been declared by the Supreme Court of India that anything which is done which in any way abridges any of the guaranteed rights of equality which are embodied in arti-

cles 14 and 15 would be immediately struck down and is liable, to be struck down as unconstitutional.

Article 14, you know, Sir, incorporates both the English principle of equality before the law as well as the American doctrine of equal protection of law. Both these concepts have been embodied in article 14. Is it consistent with the doctrine of equality before the law that you shall have one marriage law for Hindus, another marriage law for Muslims, one law of guardianship for Hindus, another law of guardianship for Muslims and Christians and Jews and Parsis? Is it consistent with the fundamental guaranteed rights solemnly embodied in Part III of the Constitution? Are you providing equal protection of laws within the territory of India?

I know that the fourteenth amendment of the American Constitution does not prevent application by a State of different laws or different systems of judicature to different parts of the country, having regard to local conditions. Regional classification is one thing; communal classification is different. Article 15 of the Constitution says:

"The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them".

When you say that a particular boy, because he is a Hindu, shall have to wait till the age of twenty-one before he can marry, while a Muslim boy can marry, say, at the age of eighteen, are you not discriminating against a particular citizen, simply because he professes the Hindu faith, simply because he professes a particular religion? Is that discrimination against the members of one community who are citizens of India on the ground of religion or place of birth or caste or

[Shri N. C. Chatterjee]

race permissible. Sub-section (3) of article 15 says:

"Nothing in this article shall prevent the State from making any special provision for women and children".

The Constitution-makers have pointed out that only in one case, and in one case alone, an exception can be made for discrimination. Otherwise, there is absolute, categorical, unqualified, unequivocal prohibition of discrimination on the ground of religion. I humbly beseech the hon. the Law Minister to apply his mind to this aspect of the question. The norms have not been fully set, the extent of the ambit of protection against discrimination has not yet been completely defined and it is not capable of rigid definition. But, as you know, the Supreme Court, has struck down the West Bengal Special Criminal Courts Act on the ground of article 14, it has struck down the Communal G.O. which was promulgated in Madras, also on similar grounds, and strong judgements were delivered. In a Bombay case also—that of Lakshman Das Ahuja—it has struck down the Bombay Special Courts Act on the ground that it infringes equality before the law or equal protection of law. It is a serious matter. I submit very strongly that this is certainly inconsistent with what the Constitution-makers have enjoined. This kind of communal legislation is not desirable. This is completely out of tune with the concept of secular democracy, which Shri Jawaharlal Nehru is daily preaching throughout India. Sir, it does not behove his Government to rush through this kind of communal legislation. If you think that something is good for one particular community, it must be good for all and you should plan it on that basis and you should not say that simply because some people, some so-called progressive people, some so-called fashionable people are wedded

to the Hindu Code, that you must legislate for codification or reformation of only one law for one community.

**Mr. Deputy-Speaker:** Is there not a Majority Act for the whole of India?

**Shri N. C. Chatterjee:** Yes. The Guardians and Wards Act is for the whole of India. That is why I am appealing. If there is to be a Minority and Guardianship Act. If you want some reformation, have it for the whole of India.

I have listened very carefully to the speech of Shrimati Sucheta Kripalani—I always listen to her with respect and with profit.

**Mr. Deputy-Speaker:** She spoke like a lawyer.

**Shri N. C. Chatterjee:** That is a trespass into the legal domain!

**Shrimati Sucheta Kripalani:** A third class lawyer!

**Shri S. S. More:** Is it not a slander to compare Shrimati Kripalani with lawyer?

**Shri N. C. Chatterjee:** Slander is excusable under Dr. Katju's Act; therefore, there is no difficulty.

I hope Shri Pataskar is not so hard-hearted as the hon. the Home Minister; I hope the new Law Minister will be more relenting and more responsible and susceptible to our appeals and suggestions.

**Shri S. S. More:** He is new, but old in his views.

**Shri N. C. Chatterjee:** Shri More knows Shri Pataskar better; at least he claims so. He says he is old. But I have the privilege of working with him on two Committees, both very important—the Committee on Subordinate Legislation and the Joint Committee on the Companies Bill!—and I have found that he brings a

refreshing view and refreshing outlook to bear on all serious problems connected with law.

Now, what I am pointing out is this, that it is entirely a slander—and a mischievous slander—to say that simply because of the organisation, which I have the honour to represent, is opposed to the Hindu Code, therefore, I am championing crude, medieval orthodoxy. It is a slander and I repudiate it; I repudiate it wholeheartedly. Those of the Members who had the opportunity of working with me on the Joint Committee on the Untouchability (Offences) Bill know that I had fought tooth and nail much more than the so-called progressives for the purpose of eradicating that cancer from the body politic of the Hindu community. I shall strive my best to widen the door to bring about real unity and integrity in the great community of which I am a humble member.

Now, I do maintain that Hindu law had been dynamic, Hindu law has not been static, Hindu law has been progressive, and the great glory of Hindu law and of Hindu society has been that it has been a common law of the Hindus. That means that it has grown, developed and expanded with expanding social consciousness. It has been an organic growth; it has not been an artificial growth. Therefore, if you read *Manu*, if you read *Yagyavalkya*, if you read *Narad*, if you read *Gautam*, and then go to the *Dharma Shastras* or *Baudhayana* or *Apastambha*, you find, stage by stage, that Hindu law was progressing or developing. Sir, the development, the organic development, of Hinduism, in tune with expanding social consciousness, was checked, thwarted and choked by the incubus of British imperialism. I am not saying that great British Judges who were administering the Hindu law made any conscious attempt to do anything improper to the Hindu com-

munity. But they were sitting and thinking in Whitehall. When I was a student in the London University, I used to go to the tribunal, the greatest tribunal in Downing Street. You know the Judicial Committee sits there. I was amazed to find Lord Shaw or a man like Dunedin going through *Manu* and *Yagyavalkya*. They used to go religiously, scrupulously, through these and try to find out what was laid down there and enforce it strictly. Their anxiety was not to hurt feelings, but to maintain susceptibilities and to maintain the traditional look of law. That compelled them to accept a peculiarly orthodox or reactionary view in certain things. In the development of *Stridhan*, Lord Davy was actually misled in his judgement by the translation by Colebrook of *Brahaspati* and *Narad*. These were wrongly translated and that wrong translation was enforced upon India, and we got a shock when that judgement came.

Now that you are freed from that incubus of British imperialism, now that you have not got to deal with Dunedin and MacNaughtons, why don't you allow the organic social consciousness to develop and, with Hindu law so developing, allow it to have full and free play? Why do you bring in only legislation? Look at the history of England. You know of the great system of common law of which the British people are so proud. They are one of the greatest commercial nations of the world, but they had not got a codified commercial law; they had not got a law of contracts codified, a law of tort codified. Only at a very late stage after we had the Sale of Goods law in the Contract Act, did they have the Sale of Goods Act. Therefore, do not think that the development of a nation is thwarted or choked simply because there is no codification. Codification is, to a large extent artificial. The greatest jurists and the greatest lawyers have pointed out that codification sometimes thwarts

[Shri N. C. Chatterjee]

sometimes acts with a deterrent effect on improving social consciousness, and it gets petrified. Take for instance, the Criminal Procedure Code. Was that not codified in the year 1882? It took 72 years before this Parliament of India had the time to do something and even then we are not satisfied. Yesterday, all sections of the House pointed out that although for 72 years some attempt was made, we were not quite happy on what we had done. Therefore, codification is not the ideal. You know, Sir, that when Bentham was trying to have a comprehensive codification and to have a unified system of civil law for England the great jurists there said that it will not do any good to England. Lord Cranworth, Lord Westbury, Lord Cairns and nine others pointed out, when Lord Westbury was the Lord Chancellor, that a digest or codification would lead really to no improvement and may by a process of interpretation, by a process of petrification, by the process of development of law by precedents based on statutory interpretation of certain codes really retard the development and therefore they dropped it. Sir, one of the greatest, if not the greatest man of jurisprudence born in Europe in the last century, Lord Kingsley pointed out that it is much better to allow free play for the traditional and normal development of social consciousness in accordance with the spirit of the age rather than codify artificially and when you codify and it gets some interpretation our doctrinaire decision comes into play and law becomes static and law becomes unprogressive. Therefore, my objection is that codification *per se* will not bring about any solution of the problem.

Now, coming to this Bill, I have tried honestly to understand the rationale of the Bill. I have made an honest effort to find out if there is any justification. I am convinced that there is absolutely nothing in

this Bill which will do any good to the community or any good to any minor. If the Bill is passed today, how will it help anybody from tomorrow? If you look at the Bill, there is nothing, not one word of improvement, not any conscious attempt made to reconcile the different conflicting judicial dicta or judicial decision. As a matter of fact, if there is any chapter on Hindu law in which there is almost complete unanimity, it is on this law of guardianship and minority. Codification becomes necessary and you try to formulate a code when there is some uncertainty or when there is an urge for radical legislation. There is absolutely no uncertainty in this branch of Hindu law. You have got Mulla's *Hindu Law* which is one of the recognised text books daily cited in courts of law or take Maine's book. Chapter XXIV in Mulla's *Hindu Law* is the chapter on Minority and Guardianship. The law is very clearly put except on one subject; there is practically no difference of opinion and the whole law is crystal clear. It is given in practically 8 or 10 pages from page 612. What is the hon. Minister going to do? I ask him, is this Bill worth the paper on which it is written? Just take this Bill, clause by clause. Clause 2 is the application of the Act. The Act applies to any person who is a Hindu by religion in any of its forms, to any person who is a Buddhist, Jaina or Sikh by religion and to any other person domiciled in India who is not a Muslim, Christian, Parsi or Jew by religion. Section 3 is definition. Next is over-riding effect of the Act. It brushes aside, by one stroke of the pen, all the laws and customs and *dharma shastras* and the *nibhandaks*, all the interpretations and all the judicial decisions in force. Very well, to what effect, what is the purpose and what is the objective? What are you going to do? Every legislation must have a standard, must have some ideal, must be actuated by some tangible clear objective. What is the objective?



Clause 9 is natural guardian of the minor. Everybody who knows the A B C of Hindu law knows that in the case of a boy or an unmarried girl the father is the first preferential guardian and then comes the mother. They have put down illegitimate boy or illegitimate unmarried girl will have the mother as the preferential guardian rather than the father. That is a great tribute to the other sex. In the case of a married girl, the husband I do not know whether Mr. Pataskar has thought about it. Supposing the husband is a minor, then what is the position? Are you going to make the minor husband the guardian?

**Mr. Deputy-Speaker:** No minor can marry now.

**Shri N. C. Chatterjee:** You know, Sir, there are millions of people in this country who are husbands as good as anybody else in the world and they have got minor wives.

**Mr. Deputy-Speaker:** All that I was saying was the husband can no longer be a minor.

**Shri V. G. Deshpande (Guna):** They are already married.

**Mr. Deputy-Speaker:** If they are already married, they would have become majors by this time.

**Shri N. C. Chatterjee:** When a boy of 8 or 10 marries a girl of 6 or 7....

**Mr. Deputy-Speaker:** It is not merely for keeping the House in good humour. Now the age of marriage has been raised in the Act which was passed a number of years ago, in 1929 or so.

**Shri N. C. Chatterjee:** But the marriage is quite good and valid in law; it is not void, nor even void-able.

**Mr. Deputy-Speaker:** Is the submission that law should recognise such improper marriages and at the same time make provision for a minor boy marrying a minor girl?

**Shri N. C. Chatterjee:** That is what Mr. Pataskar's Bill is. You know and we know.....

**Pandit Thakur Das Bhargava:** In the Guardian and Wards Act also the minor husband is the guardian of the wife.

**Shri N. C. Chatterjee:** What I am pointing out is, openly, even with the connivance of Dr. Katju's police and the authorities, the Child Marriage Restraint Act is defeated in the rural areas. I do not know of Maharashtra but I know of Bihar and other places (*interruption*), even in Mr. Pataskar's constituency possibly, hundreds of such marriages are performed at an age much below the prescribed age. The only thing, so far as I know, is what the High Courts have done. I know Mr. Justice Banerjee of the Calcutta High Court, when a guardian came and applied to the court for permission to raise money on the property of the minor for the purpose of marriage of the ward, refused such permission on the ground that the ward had not attained the requisite age limit according to the Sarda Act and that the guardian was trying to do something which he could not under the law. Apart from that, in fact, there are thousands—not thousands but hundreds of thousands of such cases.

Then comes the powers of the natural guardians. Under clause 9, the natural guardian of the Hindu minor has the power to do all acts which are necessary or reasonable and proper for the benefit of the minor and for the protection or benefit of the minor. You know, as a lawyer, that for at least one hundred years, from Hanuman Prasad's case this has been the law and everyone in India knows it. There is nothing new. It is simply a way of putting down what Lord Kingsdowne had said in that case.

Then comes sub-section (2). What business has this Parliament got to

[Shri N. C. Chatterjee]

say that the father, who is a natural guardian or the mother who is the natural guardian shall not be able to charge or mortgage or transfer any part of the immovable property of the minor. Why not? That is not the Hindu law, that is not the law of this country. Why are you putting this fetter on the father or the mother. The mother might have had some *stridhan* which might have been inherited by the son and there may be the necessity of sending the son to another country for getting some specialised training and some money may be needed for that purpose. The father might like to sell the property for that purpose. Why do you deprive the father of the opportunity of charging or transferring any immovable property of the minor? This is a wonderful piece of legislation. Supposing there are ten houses belonging to the minor. The father cannot go and pledge or mortgage one house and raise some money.

**Mr. Deputy-Speaker:** It is the son's private property and not the joint family property.

**Shri N. C. Chatterjee:** Even that is permissible today. There is no restriction. Right from 1856 to 1954, throughout India a father or the mother, as natural guardian, had the fullest right as you know. Hanuman Prasad's case has been followed by all the courts and recognised as the bedrock of Hindu law. If this power is not given, what is the good of giving any power to the natural guardian. But, if a man leaves ten lakhs of rupees in shares and securities, then the father can sell it or any part of it and there is absolutely no impediment to that. It is only immovable property that cannot be touched.

**Mr. Deputy-Speaker:** If a boy inherits some property from his maternal grandfather and his mother dies and if his father marries a second wife, does the hon. Member think that the father should be given

the unrestricted right to do whatever he wants with that property of the children of the first wife?

1 P.M.

**Shri N. C. Chatterjee:** There may be one or two extreme cases, but ordinarily, if the father dies and the mother is a natural guardian, is it ever to be suggested that the mother will do anything except for the purpose of protecting the interests of the son? How can the mother have the right to sell the immovable property, share security or anything that the boy has got? But you cannot even allow that to be done.

One other thing is this. You will find that the testamentary guardian has powers. Clause 9 says that a Hindu father may, by will, appoint a guardian for any of his minor children. Now, as I understand it, is there any question of any reformist mind being brought to bear upon this? I should think that the mother should also have that right. Why do you confine it to the father?

**Shri Tek Chand (Ambala—Simla):** Not if she re-marries.

**Shri N. C. Chatterjee:** I am not thinking of her re-marrying I do not think that every mother who wants to be appointed a testamentary guardian will be thinking of re-marriage necessarily, but I am thinking of a mother who continues in the family without any thought of re-marriage. She should be given that right. What is troubling me is this. It will be very much detrimental to people governed both by *dayabhaga* law and also by *mitakshara* co-parcenary law. Take, for instance, the *dayabhaga* law. I belong to a family and I have got four brothers. If I die,...

**Mr. Deputy-Speaker:** God forbid.

**Shri N. C. Chatterjee:** Supposing my next brother, belonging to *dayabhaga* family dies, then comes the next brother. He, the uncle of the child—is expected to look after him.

Supposing that man dies, with four houses, in Bombay, Calcutta or any other city, from the next day, the uncle collects the rents, the usufructs, etc. and pays for the education and other expenses, if necessary, for the child, as also the marriage of the sister if there is any daughter alive. From tomorrow, after this Bill is passed, no uncle, no elder brother, will be able even to collect the rents or pay the school or college fees.

**Shri Altekar** (North Satara): Not even to pay taxes.

**Shri N. C. Chatterjee**: Yes; not even to pay taxes.

**Shri S. S. More**: He is your follower!

**Shri N. C. Chatterjee**: Shri More interrupts me. He is suggesting that the Congress Party has done something very improper, that the Congress Party has done many bad things. One good thing it has done—not to pass the Hindu Code in spite of the popular will!

What I am pointing out is this: is it right, is it fair, that even in the case of a joint family, we should compel the person to go to a court of law? You know we have not got any coparcener; where there is no coparcener, is it fair that we compel every uncle or the eldest brother or the next brother to go to a court of law and apply for a certificate under the Guardians and Wards Act and then go through the whole gamble? I can assure you that very many people who go to the court of law find it difficult to proceed. I know it is so in my part of the country, and I do not know what is the procedure in other parts, and perhaps my friend Pandit Thakur Das Bhargava will be able to tell you about them. People who would like to go to the court of law and get into all this botheration of filing six months' accounts, etc., and they have to dance attendance at the *sheristadar* who asks them, "Why have you paid Rs. 2-4-0, why have you paid Rs. 12-0-0 and not Rs. 6" and so on. There is interminable discussion District Judges almost invariably issue notices inviting

caveats, and a caveat somehow comes in, whether due to vigilant eyes at the Bar or something. Sometimes two or three caveats follow and then all these difficulties occur. Assuming you are here in Delhi and there is somebody dying in your family. What will you do?

**Mr. Deputy-Speaker**: Why should, for the purpose of minority and guardianship, an hon. Member's family suffer?

**Shri N. C. Chatterjee**: Talking of *mitakshara* law—supposing I am dying, in respect of this Bill, for the time being—I will omit the references to the Chair.....

**Mr. Deputy-Speaker**: I equally urge upon the hon. Member not to refer to himself either. We are trying to take care of the children when the father dies. But no death need take place.

**Shri S. S. More**: Let him use 'A B. C and D'.

**Shri N. C. Chatterjee**: Supposing A is here in Delhi.

**Mr. Deputy-Speaker**: 'A' is the first letter of my name.

**Shri N. C. Chatterjee**: Supposing AA dies. But there again, your name comes!

**Mr. Deputy-Speaker**: X is convenient.

**Shri N. C. Chatterjee**: Supposing X of Madras is working in Delhi and dies, and Y and Z are there. Now, naturally Y would look after X's son, but if he is compelled and driven to go to a court of law and subject himself to these troubles and periodic difficulties and handicaps of having the accounts scrutinised,—there is no machinery really other than the *sheristadar* or his deputy or his deputy's deputy—all sorts of difficulties are created. As in the case of *mitakshara*, I want some clarification from the hon. Minister. You know the case—Gurubullah vs. Tlak Chand—decided by Sir Arthur Wilson at page 165 of the reports. The Privy Council

[Shri N. C. Chatterjee]

laid down the law clearly that the guardian of the property of an infant cannot be appointed in respect of the infant's interests in the property in an undivided *mitakshara* family.

**Mr. Deputy-Speaker:** It has been defined as property exclusively belonging to the minor; not to the joint family.

**Shri N. C. Chatterjee:** I know from my experience in the Calcutta High Court that if there is any question of selling the property, no purchaser would be willing to pay any decent price unless and until you get the permission of the court and then applications are made for the purpose of getting the *karta* or the eldest male member appointed, and then formal proceedings of the court are initiated. You know there is a complete conflict of judicial authority on that point, because after this judgment on 30 Indian Appeals, all the High Courts have said that it cannot be done under the Guardians and Wards Act. That is settled law. Therefore, the High Courts have found out that this judgment has had a great deterrent effect on getting the proper, requisite value for even a very high-class property. Supposing a daughter has got to be married; there are Rs. 10,000 or Rs. 20,000 in the family; and there is no cash money for the other daughters but they own ten houses in Calcutta and the family has got to dispose of one of them to bear the marriage expenses. They apply to the court, and the High Court takes up the case. In fact, Justice Costello did it; he said "I have got inherent powers by the first Letters Patent as a chartered High Court to grant certificates and to appoint a man as a guardian of a ward although he is a member of the *mitakshara* undivided co-parcenary family." The hon. Minister drew my attention to the proviso under section 12 which reads thus:

"Provided that nothing in this section shall be deemed to affect

the jurisdiction of a High Court to appoint a guardian in respect of such interest."

There is an illuminating judgment of Mr. Justice S. R. Das who is now a Judge of the Supreme Court of India. It is reported in A.I.R. 1944, Calcutta, page 433. There, His Lordship has made an exhaustive review of the cases and he has pointed out that the appointment of a person as a guardian of a minor can be done under clause 17 of the Letters Patent. That is, even in spite of Sir Arthur Wilson's judgment, the Calcutta High Court and other High Courts who have got similar Letters Patent, have got the power. Assuming that this is the correct view, I do not know what will be done in such cases when we have got Part B States and other States where the High Courts are not constituted under the Letters Patent. I do not know how such High Courts will have the power and what will be done in such cases. This will lead to a very great difficulty in the administration of a co-parcenary property. This may even to some extent disintegrate. In many cases, the Judges have refused. I know in Calcutta, even in very wealthy families, there is absolutely no charge of mismanagement against the daughter. So, Sir, there is no question of maladjustment misfeasance or malfeasance on the part of the *de-facto* guardian. But, what has happened is their Lordships have refused it because of want of power. Some Judges have not taken the view that inherent power is there and they have to actually separate the *mitakshara* co-parcenary, sell the house and everything and after the sale is effected then again have reunion of the co-parcenary.

**Mr. Deputy-Speaker:** Now, this Bill makes a provision there.

**Shri N. C. Chatterjee:** No, Sir; it does not make any provision. I wish it had done so. The proviso says:

"Provided that nothing in this section shall be deemed to affect

the jurisdiction of a High Court to appoint a guardian in respect of such interest."

It does not confer power; it only saves power. You will notice that this is a proviso saving the jurisdiction.

**Mr. Deputy-Speaker:** That means other Courts are not competent at all.

**Shri N. C. Chatterjee:** Yes, Sir, and it will be very very difficult. I am beseeching my hon. friend Shri Pataskar to make a provision. I think he comes from Khandesh. A man coming from one part of a country may have to travel 250, 300 or 400 miles before he can come to a High Court, and you know in every High Court it is much more costly than in District Courts where you can get things done with much more expedition and at less cost. Therefore, Sir, I think that it should be done.

**Mr. Deputy-Speaker:** Is it the suggestion of the hon. Member that a special power should be conferred under this Act upon High Courts in proper cases to intervene and appoint guardians even with respect to minors of undivided families.....

**Shri N. C. Chatterjee:** That is the point.

**Mr. Deputy-Speaker:** ...and therefore, make a positive provision here or is he against the ruling to this provision and against the ruling of the Calcutta Court?

**Shri N. C. Chatterjee:** I am proceeding on the view that Justice Das's view is correct and I am appealing to the hon. Minister that if he accepts that the view is correct—that is not the Supreme Court's Judgment; other Courts might have taken a different view; I know Justice M. M. Mukerjee took a different view....

**Pandit Thakur Das Bhargava:** In Punjab guardian could be appointed in respect of undivided property of Hindu Joint family. The Punjab Chief Court had held that view.

**Shri N. C. Chatterjee:** Other High Courts like Calcutta and Bombay have held differently.

**The Minister in the Ministry of Law (Shri Pataskar):** That proviso will be considered when it goes to the Select Committee.

**Mr. Deputy-Speaker:** Regarding extension of powers.

**Shri N. C. Chatterjee:** Another thing to which I want to draw attention is that I would strongly urge that *de facto* guardian should be inserted. Do not confine it merely to natural guardians. I am reading Sir, a judgment of Chief Justice Kania when he was Chief Justice of the Federal Court, reported in AIR 1949, Federal Court on page 218. Therein he pointed out that *de facto* guardians should be recognised by law and they are recognised by law. I am reading that passage—Justice Mahajan, the present Chief Justice, has agreed with it:

"In law there is nothing like a *de facto* guardian. There can only be a *de facto* manager, although the expression '*de facto* guardian' has been used in text books and some judgments of Courts. That is the correct description of a person generally managing the estate of a minor without having any legal title to do so."

He has pointed out, Sir, that *de facto* manager—call him manager or guardian—has and should have the same powers as a natural guardian when he is doing something for the benefit of the minor. He is saying that if the transaction is in the interest of the minor or for the benefit of his estate, the *de facto* manager has got the necessary authority.

I am submitting, Sir, that this is a very, very salutary provision and there should not be by legislation complete interdiction or complete exclusion of *de facto* managers or guardians.

**Shri Bogawat:** Sir, I am very glad that you have given me this opportunity. This is the first instalment of the Hindu Code which has come before this House. I have no objection to reforms, but the social reforms must be such so as to suit the conditions prevalent in the country or the interests of our people. But, if there is any law or any reform which would hurt the interests either of the minor or the people of the country, that is a very unhappy circumstance.

The present Bill, as it is drafted is very unhappy and I am very sorry to say that the persons who drafted the Bill have not given full consideration to the day to day transactions, the interests of the minor and the interests of the property of the minor. All those who spoke on this motion have clearly stated that as regards the several points. I can humbly say that the existing law is far better and, as the previous speaker said, there is nothing in this Bill which would improve matters. On the contrary there are provisions in this Bill which would harm the interests of the minor and the minor's property. I have no objection to bypass Yajnyavalkya, Manu and other legislators but the present legislators are going in such a way that they will harm the interests of the country if such a Bill is allowed to pass.

So, I want first to lay stress on clause 7, sub-clause (2). It says:

"The natural guardian shall not, without the previous permission of the Court, mortgage etc. etc."

This is a very bad clause. I am very sorry to say that an experienced lawyer like the present Law Minister should have said in his yesterday's speech that even with respect to natural guardian an important provision has been made in the Bill by which the natural guardian cannot without the permission of the Court mortgage or dispose of the minor's property. Now, Sir, I ask the House:

"Who is the real judge, the father—natural guardian—or the Court which is not acquainted with the circumstances and the difficulties of the father and the minor?" Supposing the property is mortgaged and there is a decree; the property is put to sale and it will be auctioned in a day or two and the father wants to raise money and save the property anyhow, he cannot do that. He cannot sell the property or mortgage it or have money raised on the property. This would not be in the interests of the minor. It would go against the interests of the minor if in each and every case the permission of the Court is required to be taken. The former law was that the father had the right to alienate the property of the minor in case of necessity or for the benefit of the estate. That was a good law because the burden of necessity would lie on the purchaser or the person who advances the money and if there was no benefit of the minor's estate that was lost then the transaction could be effected. But, now, here in the present clause 7, sub-clause (2) it is said that the natural guardian, even though he is the father, will not be entitled to mortgage, charge or transfer the property or even lease it for a period of more than five years.

**Shri S. S. More:** Is not prevention better than cure? This is a 'Preventive Alienation Act'.

**Shri Bogawat:** My good Sir, you are not serious.

**Mr. Deputy-Speaker:** Both hon. Members will address the Chair please.

**Shri Bogawat:** Yes, Sir. So, here the clause as it stands is very harmful to the interests of the minor or the minor's estate and the original provision that is there under the Hindu law is the best. There is no harm in allowing the natural guardian to transfer the property in case of necessity or it is for the benefit of the estate. Similarly he has no power to lease any part of such property for a term exceeding five years

or for a term extending more than one year beyond the date on which the minor will attain majority. Suppose there are circumstances in which the property would bring good rent if it is leased out for 10 or 20 years, as for example, in the case of town planning, people are in need of some plots are some property, and it is necessary then for the father to give it to a person who is in need. Therefore, the father, who is the real judge of the minor's interest, is not allowed to lease the property beyond the particular period stipulated here. This also is not in the interest of the minor. Surely, as the man is required to go to the Court, it takes months and months and—who knows—the person or the mortgagee may change and may not advance the money or may not purchase the property, or the person who wants to have the property on lease may change and may not take it on lease or may not give the amount which he intended to give. These provisions are put here in clause 7, sub-clause (2) and they are unwanted provisions. The previous law that the property can be alienated by the natural guardian in case of necessity and for the benefit or in the interest of the minor is the right law. I suggest that this clause should totally be changed and the original law should be put in its place.

Similarly if we read sub-clause (3), it says:

"Any disposal of immovable property by a natural guardian, in contravention of sub-section (1) or sub-section (2) is voidable at the instance of the minor or any other person affected thereby."

I do not mind the words "at the instance of the minor" but I do not like the last words "or any other person affected thereby". Why should you have any other person who is not a minor and who may have some interest? Suppose there are three sons, two of whom are majors and one minor, and the property belongs to all the three. The natural father or the other persons who are majors

have transferred their property. Are they also entitled to void the transaction? That would not be proper. The minor, whose property is transferred, may be given the right to void the transaction. Why should the other persons be affected? They themselves have transferred the property and I do not know why they should be given the right to void the transaction. That is not a good law.

As regards the appeal to the High Courts, we know how expensive it is for the people. That is also a provision which is not material and I think that these petitions should be allowed to be made to the original Court of principal jurisdiction, and power should be given to such Courts so that there will lie an appeal to the District Court. In that case, people will not be required to spend much for going to the High Court.

Clause 8 says—

"Where the natural guardian of a Hindu .....  
(b) where the natural guardian has ceased to be a Hindu....."

I do not understand how a change of religion is so much harmful. Supposing a Hindu changes into a Jain or a Jain becomes a Hindu.

**Mr. Deputy-Speaker:** Both of them are Hindus.

**An Hon. Member:** Christian.

**Shri Bogawat:** Suppose a Hindu becomes a Christian, why should there be such an objection? Under the Hindu Law, by the very change of religion, there will not be very bad effect. The original Hindu Law had allowed this change, but now our present law-givers want to make a change.

**Shri Tek Chand:** That is the only good change done.

**Shri V. G. Deshpande:** Do not criticise even good things!

**Mr. Deputy-Speaker:** Where from has the hon. Member found it? Where is it in the existing Hindu Law?

**Shri Bogawat:** When a person has got a big estate, when he has got many

[Shri Bogawat]

fields and business transactions, shops etc., and the minor is not able to manage all these affairs, then there is a provision under the existing Hindu Code that a Hindu father may, by writing, nominate the guardian for his children, so as to exclude even the mother. It is a very good clause in the interest of the minor.

**An Hon. Member:** Where is the provision that change of religion is no bar?

**Shri S. S. More:** There is some law!

**Shri Bogawat:** The existing Hindu Law has allowed the father to nominate a guardian in the interest of his minor children, but now this power of the father is desired to be taken away and the mother is to be the natural guardian in all cases, including those where there is a large estate or where there are business firms, shops and big properties. In such cases, generally it is the intention of the father that some good friend or trusted friend should properly manage the estate of the minor in the interest of the minor and, therefore, that was the provision in the existing law. I am very sorry to say that this power even is sought to be taken away. I do not know the reason why such a provision is to be made now. I have got every respect for our ladies, and still our country is to advance and education is to spread. So long as our ladies are not educated to such an extent as they are made experts, so long as they are not competent to manage large estates and properties, why should the father not have the right to make a will and appoint a guardian in place of the mother, though the mother is there. So, in the interest of the minor, the existing provision is the right provision and it should not be disturbed.

**Shri S. S. More:** What about the fathers who are ignorant and illiterate?

**Shri Bogawat:** There may be exceptions. My friend **Shri More**

wants to know about the case of ignorant fathers. There are cases wherein the father may be ignorant, may be a drunkard, and in such cases there is provision made for making an application to the Court to have some other person appointed in place of the father. There is that provision in the case of a father who is not fit for being a guardian—there is no objection in making an application to the Court to have another guardian appointed in his place. The authority of the father making a will and appointing a guardian in place of the mother is taken away by the present Bill, which in my opinion is not a proper provision. In the interest of the minor and in the interest of protecting the property of the minor, it is quite essential that the original provision of the existing law should be left undisturbed.

The proviso to clause 9 says:

“Provided that nothing in this section shall be deemed to authorise any person to act as the guardian of the person of the minor for so long the mother is alive and is capable of acting as the natural guardian of her minor child.”

**Pandit K. C. Sharma** (Meerut Distt.—South): It does not extend to property, but it is limited to the person.

**Shri Bogawat:** What I mean to say is that the father should have the right to appoint the guardian for the minor's property in place of the mother, and that power should not be taken away.

**Pandit Thakur Das Bhargava:** How is that being taken away?

**Shri Bogawat:** The provision says here only in respect of the person. It also mentions that after the father, the mother will be the natural guardian and after the mother the person appointed by the will, will come into the picture—not before that time. So long as the mother is alive, the person appointed by the will of the father will have no right, I think, to manage the estate of the minor.



**Shri Tek Chand:** That is in clause 9(1) of the Bill, in the proviso.

**Shri Bogawat:** Yes, it is there in the proviso.

Then as regards the guardianship of the illegitimate child, there is always a difference of opinion as to how the child is to be looked after. According to sub-clause (b) of the Explanation under clause 2, "any child, legitimate or illegitimate, one of whose parents is a Hindu and who is brought up as a member of the tribe, community, group or family to which such parent belongs or belonged" is a Hindu by religion within the meaning of this Bill. If we look to section 6 of the existing Hindu Law it is clearly mentioned there in sub-section (3) that it applies to the illegitimate children of a Christian father by a Hindu mother who are brought up as Hindus. Those are the clear words. And in sub-section (1) of section 7 of Hindu Law it is provided that it applies to the illegitimate children of a Hindu father by a Christian mother who are brought up as Christians, or to the illegitimate children of a Hindu father by a Mahomedan mother.

These are the clear provisions under the existing Hindu law, and in the present Bill also such a provision should be incorporated so that there would not be any difficulty in finding out whether the illegitimate child is a Hindu or a non-Hindu.

**Mr. Deputy-Speaker:** So long as the other religionists are not prepared to accept, or this does not apply, the hon. Member feels the change is necessary?

**Shri Bogawat:** My submission is that I do not go beyond the existing law. What is there in the existing law should at least be taken advantage of and all the provisions should be made clear. That is my humble submission.

I am very glad to see that under sub-clause (3) of clause 9 a good provision is made that "subject to the

provisions of this Act, a Hindu widow may, by will, appoint a guardian for any of her minor children in respect of the person of the minor."

**Shri K. K. Basu (Diamond Harbour):** The Law Minister is not here. Is there anybody to convey this to the Law Minister?

उपाध्यक्ष महोदय : बिल चल रहा है।

श्री के. के. बसु : बिल तो जरूर रहा है।

**The Deputy Minister of Railways and Transport (Shri Alagesan):** Sir, I shall be taking notes on behalf of Government.

**Mr. Deputy-Speaker:** The Deputy Railway Minister is taking charge of it so that it may be put through quicker!

**Shri Tek Chand:** The Bill is in loco-motion!

**Shri Bogawat:** In the present Bill, as drafted, there are so many flaws and difficulties created. All these difficulties should be removed and the Bill should be brought in conformity with the existing law. If there had been any difficulty in the existing law, I could have understood and I would have welcomed a change. But all the changes that are made in the present Bill are not in the interest of the minor or of the minor's estate. Difficulties are created and there is confusion worse confounded. I submit that all these things must disappear, the existing law as it stands must be considered carefully and the provisions should be amended accordingly. I also make a request that the Select Committee may consider all these points and either the present Bill should be improved or the existing law should come in its place.

**Mr. Deputy-Speaker:** I shall now call upon Pandit Thakur Das Bhargava. After he finishes, I will call one or two lady Members.

पंडित ठाकुर दास भार्गव : जनार्दन हिन्दी स्पीकर साहब, अभी मैंने एक बड़ी मुद्दालिल

[पंडित ठाकुर दास भार्गव]

सफ़री श्री वॉटर्ज की सुनी, जिस में उन्होंने हवाला दिया फंडामेंटल राइट्स का, कांस्टिट्यूशन का और कहा कि हिन्दू ला के बार् में हिन्दू ला का कोई इन्स्टालमेंट इस हाउस में नहीं आना चाहिए। ऐसा कानून बनना चाहिए जो सार हिन्दुस्तान के वास्ते एक हो। मैं अर्ज करना चाहता हूँ कि यह सिलसिला कोई नया नहीं है। जो पुराना हिन्दू कोड बिल था जब वह आया तब भी यही आर्गमेंट दिया गया था। आलीर में यह हुआ कि हिन्दू कोड बिल सेलेक्ट कमेटी के सुपुर्द हुआ। इस हाउस ने उसके प्रीसपुल को मान कर सुपुर्द किया।

इस बिल में मैं बहस की इस गहराई में नहीं जाना चाहता कि आया यह सार हिन्दुस्तान के लिए हो या कि सिर्फ हिन्दू और मुसलमानों के मुताबिक कोई कानून कांस्टिट्यूशन के बख़लाफ होगा या नहीं क्योंकि जो कुछ मैं अर्ज करना चाहता हूँ वह इस से बिल्कुल मुस्तालिफ है। गां कि मैं इस बात को नहीं मान सकता जैसा कि कल मेरे भाई श्री दशपांड ने फरमाया था कि दरअस्त इस हाउस को कोई हक नहीं है कि वह कोई ऐसा कानून बनाए जो कि सिर्फ एक सेक्शन आफ पापुलेशन के वास्ते हो। अगर मैं इस भगड़ में पहुँगा तो बड़ी गलती करूंगा। लेकिन एक बात बिल्कुल साफ है जिस का मैं जानता हूँ और जिस के अन्दर किसी को भी नाराजगी नहीं होगी साथ ही जिस को इस हाउस का हर एक मम्बर मानेगा और वह यह है कि अगर कोई सिविल कोड बन सकता हो या कोई सिविल कोड मौजूद हो, अगर कोई मौजूद न हो तो उस को बनाने की कोशिश की जाए। अगर मौजूद हो तो उस को छोड़ा न जाए। इस निर्गीटव बात को हर एक आदमी मानेगा। कांस्टिट्यूशन की दफा ४४ में साफ तौर पर लिखा हुआ है कि हम एक यूनिफार्म सिविल कोड हिन्दुस्तान भर के लिए बनाने की कोशिश करेंगे। अगर कोई सिविल कोड हमारी खुशकिस्मती से मौजूद हो जो सब को एप्लाई करता हो तो उसको इस बिल में हिन्दू कोड बना देना सरीहन गलती है और यह गलती

हमार ला मिनिस्टर साहब कर रहे हैं। मेरी नाकिस् राय में इस वक्त हिन्दुस्तान में माइनारिटी और गार्जियनशिप का यूनिफार्म सिविल ला मौजूद है और उसके साथ खलना जायज नहीं है। उसको नंग डायन कर देना, हिन्दू के वास्ते मखसूस कर देना या मुसलमानों के वास्ते मखसूस कर देना या यह कह देना कि जो हिन्दू नहीं है वह इसके अन्दर नहीं आते हैं, गलत होगा। और यह गलती इस बिल से की जा रही है। मेरा यह दावा है कि आज के दिन अगर किसी चीज के बार् में यूनिफार्म सिविल कोड है तो वह माइनारिटी और गार्जियनशिप के वास्ते है। अभी वॉटर्ज साहब ने शिकायत की और कल दशपांड साहब बड़े जोर से शिकायत कर रहे थे कि गवर्नमेंट आफ इंडिया लोगों के पर्सनल ला के अन्दर इन्टरीफर करती है।

[SARDAR HUKAM SINGH in the Chair]

वह भूल जाते हैं कि मंजोरिटी एक्ट हिन्दू ला और मुसलमान ला दोनों के ऊपर एन्कोचमेंट है। हिन्दू ला के मुताबिक एक शख्स १६ बरस की उम्र में बलगत को पहुँचता है और मुस्लिम ला में भी १५ बरस की उमर मुकरर नहीं है लेकिन मंजोरिटी एक्ट सब के लिए १५ साल मुकरर करता है। हम जानते हैं कि सभी के वास्ते शारदा एक्ट पास हुआ और उस में यह उम्र १५ साल कर दी है यह हिन्दू ला के भी बख़लाफ है और मुसलिम ला के भी बख़लाफ है। मैं आप को पुरानी कहानी सुनाना चाहता हूँ। जब शारदा एक्ट हाउस के अन्दर आया तो मालवीय जी ने उस की बड़ी हिमायत की और कहा कि हिन्दूओं के वास्ते यह बहुत बड़ी चीज है। इस पर जिन्ना साहब उठे और उन्होंने कहा कि यह क्या गजब है। क्या मुसलमानों में यह बिदतें नहीं हैं। छोटी उमर की शादी हटाने का कानून मुसलमानों के लिए भी होना चाहिए। और सार हिन्दुस्तान के वास्ते एक्ट बनना शुरू हुआ। जब वह बनने लगा तो उस कमेटी के, जिसका मैं भी एक मम्बर था, तीन मुसलमान साहबान भी मम्बर थे। उन्होंने सार हिन्दुस्तान का दौरा किया और देखा कि वह बिदतें और खराबीयां

मुसलमानों के अन्दर भी मौजूद थीं। उस जमाने में यह कोशिश की गई कि शारदा एंक्ट सारं हिन्दुस्तान के वास्ते बनाया जाए। लेकिन उस वक्त आर्य समाजियों ने अपने अखबारों में लिखना शुरू कर दिया कि मोहम्मद साहब ने मुसलमान आयशा से किस उम्र में शादी की? हम इस शरियत को तब्दील करना चाहते हैं। इसका नतीजा यह हुआ कि हमारे मरहूम मोहम्मद अली साहब ने क्वीन्स गार्डेन में गुस्से में आ कर कि आर्य समाजियों ने क्यों ऐसा लिख दिया, उस शारदा एंक्ट को तोड़ा। यह जो कोशिश हमारे आर्य समाजियों ने की उस से यह नुकसानात हुए हैं।

हरअल्ल जब हम एक कानून बनाएं, जो कानून सारं हिन्दुस्तान के लिए अच्छा हो, उसके अन्दर इस तरह की हज़तें करना वाजिब नहीं हैं। जब आज कल गार्जियन्स एंड वार्ड्स एंक्ट, १९५० सारं हिन्दुस्तान के अन्दर नाफिज़ हैं तो कोई वजह नहीं मालूम होती कि अगर हम कोई तरमीम माइनारिटी एंड गार्जियनशिप एंक्ट में करना चाहें तो उसको न कर के हिन्दुओं के लिए अलाहदा माइनारिटी एंड गार्जियनशिप एंक्ट बनाएं। मैं यह अर्ज करना चाहता हूँ कि जो कानून इस वक्त हैं वह हिन्दुओं, मुसलमानों और क्रिस्चियनों पर एकसां लागू होता है। अगर उसमें कोई तरमीम करने की ज़रूरत थी तो वह की जा सकती थी। लेकिन यह बात समझ में नहीं आती कि सिर्फ हिन्दुओं के लिए ही एक अलैहदा एंक्ट बनाया जाए।

मैं जब इस बिल को देखता हूँ तो मुझे हैरानी होती है कि क्यों इस बिल के बनाने वालों का ध्यान इस तरफ नहीं गया, क्यों उनकी, जिन्होंने इस बिल को पेश किया, समझ में यह बात नहीं आई कि इस बिल के अंदर कोई नई चीज नहीं है जो सिर्फ हिन्दुओं पर ही लागू होती हो और दूसरों पर न लागू होती हो। तो जनाबे वाला! अब मैं इस बिल को कलाज़ बाई कलाज़ लेता हूँ। कलाज़ (१) नाम के बार् में हैं और उसीलिए कि कहां कहां यह बिल फुलार्ड करे। कलाज़ (२) यह है कि किन किन लोगों पर यह

बिल एप्लाइ होगा। कलाज़ (३) इंफ़ीनिशन के बार् में हैं। कलाज़ (४) भी इस एंक्ट के जोबर गार्डिडिंग इंफ़ीनिशन के बार् में हैं। अब मैं, कलाज़ (५) पर आता हूँ। यहां से ऑर्पेटिव पार्ट शुरू होता है। इस कलाज़ के बार् में नॉट्स आन क्लॉजिज़ में लिखा हुआ है कि इस कलाज़ को सिलैन्ट कमीटी ने जोड़ा है

"This clause re-enacts the existing law."

तो फिर इस कलाज़ की कोई ज़रूरत नहीं है

"It only restates the existing law"

कलाज़ (६) के बार् में लिखा हुआ है

"This clause exactly reproduces the existing law. What is the use of it also."

कलाज़ (७) के बार् में लिखा है

"The existing restrictions on the powers of the natural guardian of a Hindu minor have been re-cast more or less on the lines of similar restrictions in the Guardian and Wards Act, 1890".

तो यह जो पावर्ज आफ नैचुरल गार्जियन हैं वह सब के बार् में एक सी होनी चाहिए, यह नहीं कि सिर्फ हिन्दुओं पर ही इनको लगाया जाए और मुसलमानों या ईसाइयों पर न लगाया जाए। ऐसा नहीं होना चाहिए कि एक के बार् में कुछ रिस्ट्रिक्शन्ज़ लगा दी जाएं और दूसरों के वास्ते वो न लगाई जाएं। यह बहुत नामुनासिब सी चीज है। जो जिम्मेदारियां एक हिन्दू नैचुरल गार्जियन को निभानी होती हैं वही एक मुस्लिम गार्जियन को भी निभानी पड़ती हैं और वही एक क्रिस्चियन गार्जियन को भी निभानी होती है। इस वास्ते इस कलाज़ को खास हिन्दुओं पर लागू करने की कोई ज़रूरत नहीं है और यह सब पर लागू होनी चाहिए।

यह जो कलाज़ (८) है इसके बार् में लिखा है

"Under the present law, the natural guardian entrust the custody and education of his minor children to another person but such entrustment

## [पीठव ठाकुर दास भार्गव]

is revocable. The Court will, however, interfere to prevent revocation".

This is the civil law. तो इस के होने या न होने से भी कोई फर्क नहीं पड़ता।

Clause 9. Under the existing law, even the mother can be excluded from the guardianship by the father. She has also no power to appoint a testamentary guardian.

सिर्फ यह एक एंसी दफा है कि जिस के बीरए जो इस वक्त हिन्दू ला है उस में ज्यादा से ज्यादा तरमीम की जा रही है लेकिन यह तरमीम इस तरह की है कि वह सिर्फ हिन्दुओं से ही ताल्लुक नहीं रखती। rights of mother, mother से ताल्लुक रखती है या औरतों को हकूक देने से ताल्लुक रखती है एक मुसलमान मां या एक हिन्दू मां अपने बच्चों के साथ उसी तरह से मुहब्बत करती है जैसे कि कोई और मां करती है। अगर एक हिन्दू मां गार्जियन हो सकती है तो मैं पूछना चाहता हूँ कि क्या एक मुसलमान मां या क्रिस्चियन मां गार्जियन नहीं हो सकती? क्या डिफरेंस है, एक हिन्दू मां, एक मुसलमान मां और एक क्रिस्चियन मां में? दरियर इज नो डिफरेंस एंट आल। इस वास्ते यह सैक्शन भी सब पर लागू होना चाहिए।

क्लाज (१०) एक अनएक्सेपशनबल प्रिंसिपल या पोस्टुलेट (unexceptionable principle postulate) करती है।

A Hindu boy or girl should be brought up as a Hindu. This need not be put in the Act at all. It is not necessary.

जब गार्जियन मुकरर होगा तो क्या आप उससे धक एक्सपेक्ट करेंगे कि जो लड़का या लड़की उसके सुपुर्द की गई है वह उसका मजहब तबदील करेगा? इस वास्ते इसकी कोई जरूरत नहीं है।

Clause 11. Under the existing law, a de facto guardian has the same power to alienating the property of his ward as a natural guardian. This clause abolishes de facto guardians.

तो मैं अर्ज करना चाहता हूँ कि जब इस एक्ट में डि फैक्टो गार्जियन को खतम करना चाहते हैं और उसको अधिकार नहीं देना चाहते हैं जो कि नैचुरल गार्जियन को दिए गए हैं तो इसको इस एक्ट में लाने की क्या जरूरत थी। यह तरमीम एंजिस्टिंग ला में की जा सकती थी। इस एक्ट में इसको लाने की कोई जरूरत नहीं है।

Clause 12. So long as the joint family system exists, this provision, which is in accordance with the existing law is necessary.

क्योंकि यह भी पहले ला में है इस वास्ते इसकी भी जरूरत नहीं।

क्लाज (१२) के बारे में मैं बड़े अदब से पूछना चाहता हूँ कि इस एक्ट में कौन सी एंसी चीज है जिसको कि हिन्दुओं के ऊपर हिन्दूज एंज सच एप्लाई करने की जरूरत महसूस हुई और दूसरों पर नहीं।

This is the existing law.

इन सब बातों को देखते हुए मैं कह सकता हूँ कि यह हिन्दू ला आफ माइनोरिटी एंड गार्जियनशिप नहीं।

This is the general law of minority and guardianship.

इसी तरह से गार्जियनशिप एंड वार्डशिप एक्ट ६५ बरस से चला आ रहा है और उसमें कोई तरमीम करने की जरूरत महसूस नहीं हुई। इसलिए हिन्दू माइनोरिटी एंड गार्जियनशिप एक्ट की कोई जरूरत नहीं है। मेरी अदब से गुजारिश है

It is a misconceived piece of legislation. It is absolutely unnecessary for the Hindus.

अगर यह सैंब पर एप्लाई करता तो मैं समझता हूँ कि इसकी थोड़ी बहुत जरूरत हो सकती थी

लीकन क्योंकि यह सिर्फ हिन्दुओं पर एप्लाई करता है मुझे इसकी कोई जरूरत महसूस नहीं होती। और मैं समझता हूँ कि यह हाउस इस पास करने में जस्टिफाइड नहीं होगा।

जनाब वाला जाज हिन्दुस्तान में 26 करोड़ लोग रहते हैं जिस में से बहुत ज्यादा हिस्सा हिन्दुओं का है। मैं अदब से एठना चाहता हूँ कि कितने मुकदमात गार्जियनशिप के एक्ट के तहत अब तक कोर्ट्स में आए हैं। इस किस्म के निहायत ही कम मुकदमात आते हैं। असली गवर्नमेंट और निहायत कामयाब गवर्नमेंट वह है जो लिवर की तरह काम करती है। मुझे पता नहीं मेरा लिवर किस वक्त काम करता है। वही हैल्दी सिसटम होता है जिसमें आदमी को पता नहीं लगता कि लिवर कहाँ है और काम करता है या नहीं। अच्छी गवर्नमेंट वही होती है जो लोगों की लाइफ के साथ किसी तरह इंटरफीयर नहीं करती और सब जातियों को एक बराबर समझती है...

पीडित कै० लौ० शर्मा: बहुत पुरानी बातें करतें हैं आप।

पीडित ठाकुर दास भार्गव: मेरे दोस्त ने ऐसे वक्त में बात कही है जिस वक्त कि उसका कोई मतलब नहीं है। अगर मेरे लायक दोस्त ने उस वक्त जब कि इसका कुछ मतलब होता यह बात कही होती तो मैं जवाब भी दूँ दता।

सभापति महोदय: इस वास्तु आप जारी रखें।

पीडित ठाकुर दास भार्गव: मुझे हमेशा जारी रखना है, लेकिन जब कोई बीच में बोल पड़ता है तो मुझे जरूर जवाब देना पड़ता है। तो मैं अर्ज कर रहा था वह गवर्नमेंट अच्छी गवर्नमेंट होती है जो लोगों की लाइफ में इंटरफीयर नहीं करती। तो मैं एठना चाहता हूँ कि कितने ऐसे मुकदमात हैं जो कि गार्जियनशिप एक्ट के तहत डिस्ट्रिक्ट कोर्ट्स में दायर किए गए हैं। और उनका क्या हश्र हुआ है। बरसों तक उनका कोई फैसला नहीं होता और पीशियां पड़ती रहती हैं। तो मैं अदब से अर्ज करना चाहता हूँ कि क्या आप चाहते हैं कि जजों की कोर्ट्स दर-

स्वास्तों से भर जाएं? अगर आप यह नहीं चाहते तो आप नें वह नैचुरल और अननैचुरल गार्जियन का भागदा क्या सझा कर दिया है। अगर हिन्दु ला में अननैचुरल गार्जियन नहीं होता है तो मुसलमानों में भी अननैचुरल गार्जियन नहीं है। मैं इस नए सिलीसिले को देखकर बहुत हैरान हूँ। कोई शस्स जो हिन्दुस्तान की सिबिलाइजेशन से वाकिफ है, कोई शस्स जो हिन्दुस्तान की फौमिलीज के, और खास तौर से हिन्दुओं की फौमिलीज के कांस्टीट्यूशन से वाकिफ है वह जानता है कि अगर कोई बच्चा आरफन हो जाता है, उसके मां बाप मर जाते हैं, तो खानदान वाले उन से जहां तक हो सकता है उसको प्रोटैक्शन देते हैं और उसकी परवाह करते हैं। आप गांवों में जा कर देखें कि अगर किसी बच्चे के मां बाप मर जाते हैं और उसकी परवरिश करने वाला कोई नहीं रहता तो गांव वाले उसकी परवरिश करते हैं। यह ठीक है कि आज इंडीवीजुअल टैंडेंसीज बढ़ रही हैं, ताहम मैं जानता हूँ कि अभी फौमिली टाइज बहुत कुछ बाकी हैं और आरफन बच्चे अनप्रोटैक्टड नहीं रहते और आपने कानून में जो प्रोटैक्शन लड़के और लड़की को दिया हुआ है वह काफी है। आज भी गार्जियन का एक्ट वाइडबल है। अगर गार्जियन ने माइनर की भलाई के लिए कोई काम नहीं किया है तो वह बड़ा हो कर उसके खिलाफ कार्रवाई कर सकता है। इतना ही ला क्या कम है? इस ला के रहते लड़के को बहुत प्रोटैक्शन है। लेकिन अगर आप उसकी जायदाद के लिए नया कानून बना देंगे तो इससे उसका बहुत नुकसान होगा। मेरे ख्याल से इस को पास करने से सोसाइटी में लोगों को सल्ट दिक्कत हो जाएगी और मैं समझता हूँ कि इस दिक्कत का अन्दाजा उन लोगों को नहीं है जो कि इस बिल को लाए हैं।

आज अगर मैं इस बिल को एक मिनट के लिए ठीक मान भी लूँ तो विलिए एक्ट इसके अंदर मां बाप क्या कर सकते हैं। आजकल लैंड के लिए सरकार सीलिंग मुकर्र करनं जा रही है। मैं नें सुना है कि हमारे यहां पंजाब में तो

[पीडित ठाकुर दास भार्गव]

शायद ३० एकड़ सीलिंग रखी जाएगी, और द्वावनकोर-कोचीन में १५ एकड़ ही रहेगी। ऐसी हालत में इम्पूवेल प्रापटी रह ही क्या जाएगी। लेकिन मुंबल प्रापटी चाहे एक करोड़ रुपए की हो उसके लिए इस कानून में कुछ भी दर्ज नहीं है। इसका इस बिल से कोई जिक्र नहीं है कि अगर उसके बैंक के शोर्स हैं कौश हैं डिबैंचर्स हैं, उनका क्या होगा। उसके लिए कोई प्राक्खन नहीं है। लेकिन उनको इम्पूवेल प्रापटी बहुत प्यारी है जो उनकी होती बा रही है और जो कि सीलिंग मुकरर होने की वजह से बहुत थोड़ी रह जाएगी। वह प्रापटी तो खुद भी ऐसी है जो कि प्रोटैक्टड रहेगी। इसके बास्त इस कानून के अन्दर एक गार्जियन कोर्ट से मुकरर होगा जिसको वही इस्तिहार होंगे जो कि नेचुरल गार्जियन को होते हैं। यह हिन्दू ला और मुस्लिम ला और जहां तक मैं समझता हूं क्रियेचयन ला के भी खिलाफ है। मैं अदब से पछना चाहता हूं कि इसकी आपको क्या जरूरत महसूस हुई? आपको क्या तकलीफ महसूस हुई? हमारे सामने कोई एबीडेंस नहीं लाई गई जिससे साबित होता कि इस कानून को लाने की जरूरत थी। मैं अदब से अर्ज करना चाहता हूं कि यह बहुत ड्रास्टिक कानून है। गार्जियन्स एंड वार्ड्स एक्ट के रहते हुए इसकी कोई जरूरत नहीं। और इसका नतीजा यह होगा कि अदालतों में यही मुकदमे भर जाएंगे और कोई दूसरे कैसे नहीं रह जाएंगे।

अब आप मुलाहिजा फनमाइए कि इसमें दादा को नेचुरल गार्जियन नहीं माना है। आप जानते हैं कि एक दादा को अपना पांता कितना प्यारा हो सकता है। वह उसको उसके बाप से ज्यादा प्यार करता है। अब उसके लिए भी जरूरी है कि वह कोर्ट में जाए और गार्जियन मुकरर हो। इसी तरह से और बीसों मिसालें हैं जिन में इस कानून में दिक्कतें पैदा हो जाएगी और जिनका कोई इलाज इसमें नहीं दिया गया है और जिनके बारे में आनरीबल मिनिस्टर साहब ने नहीं सोचा है। मैं आप से पछना चाहता हूं कि आप ने इसमें मैरिड गर्ल, मैरिड बाय, अनमैरिड

गर्ल, अनमैरिड बाय के लिए तो प्राक्खन रखा है, लेकिन विधो के बास्त आपने कुछ नहीं रखा। अनमैरिड बाय और अनमैरिड गर्ल का गार्जियन बाप हो सकता है, मैरिड गर्ल का गार्जियन उसका इसबैंड हो सकता है, लेकिन विधो का गार्जियन कौन होगा यह आपने नहीं रखा। इस मुल्क के अन्दर तो एक बरस से कम उम् तक की विधोएं काफी बड़ी तादाद में मौजूद हैं....

**Shri Asoka Mehta (Bhandara):**  
After the Sarda Act?

**Pandit Thakur Das Bhargava:** What after the Sarda Act? Government makes laws but cannot enforce them. What is the use of having these laws?

शायद आपको मालूम नहीं। आज भी हमारे देश में दंहातों में छोटी उम्र में बहुत शादिबां हो रही हैं। और अगर १८ साल के कम उम्र की विधोएं का हिसाब लगाया जाए तो उनकी तादाद लाखों तक पहुंचेगी। मेरे ह्याल से उनकी तादाद बीस लाख से कम न होगी। मैं न एक बार यहां हाउस में इसके फिगर्स दिए थे। तो इन विधोएं का कोई भी नेचुरल गार्जियन नहीं है। तो इसके मानी क्या है? क्या उसके परसन का गार्जियन नहीं है इस बास्त क्या kidnapping out of guardian's custody goes away as an offence? उसकी जायदाद पर कोई कब्जा कर ले? उसके लिए कोई कोर्ट में नहीं आवेगा? तो ऐसी हालत में क्या होगा? मेरे ह्याल में इस तरह का कानून जिसमें इतनी कीमियां हैं वह हमारे लिए वाजिब नहीं होगा।

मैं एक और प्वाइंट आफ व्यू आपके सामने रखना चाहता हूं। आज जिस मैरिज ला पर राज्य सभा में बहस हो रही है उसके अन्दर एक लड़का एक लड़की से शादी करता है और शादी करने के बाद अगर लड़का अपना मजहब तबदील कर लेता है तो वह शादी डिजाल्व नहीं होती

और न बाइड करार दी जाती हैं। एंसा प्रॉबिजन हैं कि लड़की इस वजह से डाइवोर्स हासिल कर ले। उसको तीन साल तक डाइवोर्स की इजाजत नहीं है। तो एंसी हालत में उसका क्या बनगा? आज एक लड़के ने एक लड़की से शादी कर ली और लड़के ने अपना मजहब तबदील कर लिया। एंसी हालत में लड़की का कौन गार्जियन होगा। कोई गार्जियन नहीं होगा क्योंकि उसका हसबैंड हिन्दू नहीं रहा और इसलिए वह गार्जियन नहीं हो सकता इस बिल में लिखा है। तो एंसी हालत में उसका कौन गार्जियन होगा? यह चीज बहुत बड़ी है। इस कानून के हिस्से आपस में कांटेनिकटरी हैं। एक हिस्सा कुछ कहता है दूसरा हिस्सा कुछ और कहता है इसमें आपने यह दर्ज कर दिया है :

If he ceases to be a Hindu, he ceases to be a guardian. But who will be the guardian of that woman, you have not said.

Shri M. S. Gurupadaswamy (Mysore): The father.

**Pandit Thakur Das Bhargava:** No, it is not possible. I am speaking of a married woman. So far as a married woman is concerned there is no doubt that someone from the family of the husband can be the guardian of that widow. This is also a lacuna. For this there is nothing in this law.

अभी मेरे माहतरिम दोस्त चटर्जी साहब ने हिन्दू जाइंट फौमली के बारे में कहा। हमारे यहां पुराने पंजाब चीफ कोर्ट ने फैसला किया था कि अनडिवाइडंड हिन्दू फौमली के लिए किसी को माइनर का गार्जियन न बनाया जाय। मुझे पता नहीं कि वही अख्तियारात जो कि कैलकटा हाईकोर्ट को है हमारे कोर्ट को आजकल है या नहीं। मान लीजिये कि वह अख्तियारात नहीं है तब तो यह सूरत होगी कि इस कानून में एंसा प्राविजन रखा जाय कि हिन्दू जाइंट फौमली में कोई दूसरा गार्जियन न बन सके। मैं अदब से अर्ज करूंगा कि वह इम्पारटेंट कानून है। मैं तो चाहता हूँ कि लैटर्स पेटेंट का भी ला हाई कोर्ट्स से हटा

लिया जाय। हिन्दू जाइंट फौमली का जो कन्सेप्शन है वह तो अजीबोगरीब है। उसका तरीका तो सोशलिस्टिक और कोआपरेटीव तरीका है। मैं अर्ज करना चाहता हूँ कि एक अनडिवाइडंड हिन्दू फौमली में तो वह बल ही नहीं हो सकता कि माइनर की कितनी जायदाद है क्योंकि वहां तो जितने भी एडल्ट हैं, और जतने भी माइनर हैं, सब का उसमें हिस्सा होता है। इसलिए मैं अर्ज करूंगा कि हाईकोर्ट को इस तरह का इख्तियार देना जायज नहीं है। जबतक पार्टीशन न हो जाय तब तक पता नहीं चल सकता कि किसकी कितनी प्रापटी है। इसलिए कौन किसका गार्जियन बनाया जायगा? गवर्नमेंट के बहुत से कानूनों में जाइंट हिन्दू फौमली को तांड़न की कोशिश की गयी लेकिन वह अभी तक कायम है। मैं नहीं चाहता कि किसी कानून के जरिये इब इस्टीम्युशन को खत्म किया जाय। वह तो आहिस्ता आहिस्ता अपने आप ही खत्म हो रहा है। आप क्यों एक हथौड़ा और उसमें मारना चाहते हैं। मैं तो नहीं चाहता कि इत नब बिल में यह पावर दी जाय। मैं तो चाहता हूँ कि इसको निकाल दिया जाय ताकि हिन्दू जाइंट फौमली महफूज रह सके।

इसके अलावा जाइंट हिन्दू फौमली में एक बहुत अच्छी चीज और भी है। जाइंट हिन्दू फौमली की सारी जायदाद उसके सारं मेम्बरों की होती है। सब लोग उसको बढ़ाते हैं और इस तरह से माइनर का हिस्सा भी बढ़ता जाता है। उन सब लोगों की मेहनत का सारा फायदा उस माइनर को भी पहुंचता है। लेकिन अब अगर कभी काम में नुकसान हो जाय और प्रापटी बचनी पड़े तो इसका भी खानदानवालों को इख्तियार होना चाहिए। अगर यह इख्तियार नहीं होगा तो यह चीज बहुत गैर मुनिस्फाना होगी जो कि जायज नहीं है। तो मैं अर्ज करूंगा कि कितनी ही एंसी बातें हैं जो कि इस कानून में आती हैं और जो कि पुराने गार्जियन्स एंड वाइड्स एक्ट के मुतालिक हैं। इसलिए मैं यह अर्ज करना चाहता हूँ कि इस बिल में इस चीज को आप न रखें ताकि हिन्दू

[पंडित ठाकुर दास भार्गव]

जाइंट फॉर्मली महफूज रहे और उसका पार्टीशन न हो। मैं समझता हूँ कि उसका पार्टीशन इस तरह से करना नाजायज होगा।

2 P.M.

इस नुकते निगाह से मैं आनंदबुल मिनिस्टर साहब की सिद्धमत में अर्ज करूंगा कि अगर इस चीज के अन्दर कोई नई चीज नहीं है जिसको वह बनाना चाहते हैं और जो कि सारं दंश की सब कन्प्युनिटियों के वास्ते एप्लीकैबल न हो तो इस बिल को लाने का क्या फायदा। इसमें आप डिफेंडेंटो गार्जियन को उड़ा देना चाहते हैं, मेरी गुजारिश है कि हिन्दुस्तान के खास हालात में डिफेंडेंटो गार्जियन को जायज न मानना कि कोई किसी किस्म का उन्हें इस्तिस्नान न रहे, यह बड़ी भारी गलती हम से होगी। मैं खुश हूँ कि इसमें यह ही लिखा है डिफेंडेंटो गार्जियन जहां तक प्रापर्टी का सवाल है

“Not to deal with minors property”.

इसमें परसन का जिक्र नहीं है, हालांकि यह भी काफी खराबी की बात है। आज हम जानते हैं और सिविल प्रोसीज्योर कोड से जो बखूबी वाकिफ हैं वह जानते होंगे कि कोर्ट “गार्जियन एंड लाइटम” मुकर्रर करता है और गार्जियन मुकर्रर करने के बाबत उसमें लिखा है कि कोई भी ऐसा शख्स जिसका कि एंडवर्स इंटरस्ट न हो एनी परसन कौन भी एपायन्टड, चाहे उस माथनर का वह रिसेटिव हो या न हो कोर्ट की इजाजत के बगैर कुछ नहीं हो पाता।

डिफेंडेंटो गार्जियन के होने से किसी माइनर को नुकसान नहीं होने वाला है क्योंकि उसको वहीं तक काम करने का इस्तिस्नान है जहां तक कि वह माइनर के फायदे और उसकी नैसेसेटी के वास्ते हो। कानून में जो हमने माइनर के चारों तरफ प्रोटीक्टिव विंग फेंका हुआ है वह उनका बचाव करता है और किसी किस्म से उनको गार्जियन से नुकसान पहुंचाने का खतरा नहीं रहता, क्योंकि कोर्ट की इजाजत लिये

बगैर वह गार्जियन किसी तरह की तबदीली प्रापर्टी में नहीं कर सकता और मैं ने तो आज तक नहीं देखा कि गवर्नमेंट ने किसी के खिलाफ ऐसा मुकदमा चलाया हो कि उसने माइनर की जायदाद खा ली हो या इड़प ली हो। और जैसा मैंने पहले भी कहा था क्या हिन्दू, ला क्या मुस्लिम ला, आखिरी गार्जियन हर माइनर की, गवर्नमेंट है यह हमारा होम मिनिस्टर है। मैंने एक मर्तबा यह भी कहा था कि सारं बच्चों की अल्टीमेट मां होम मिनिस्टर है, मां इसलिये कहता हूँ कि मां का हक सबसे ज्यादा होता है, मां, बाप दोनों समझ लीजिये यह हमारा होम मिनिस्टर मुल्क भर के बच्चों के होते हैं। मैं अदब से पूछना चाहता हूँ कि जिस मां बाप के इतने सारं बच्चे हों, उसने कभी किसी बच्चे की तरफ तबज्जह दी है ? यह सरकार की अल्टीमेट ड्यूटी है और आप चाहते हैं कि इन का भला हो तो उनके जो रिश्तेदार हैं उनके गार्जियनशिप के क्लेम को आप न हटाइये, ऐसा करके आप उन नाबालिग बच्चों को कोई प्रोटेक्शन नहीं दे रहे हैं। उनको रहने दीजिये। जो प्रोटेक्टर्स हैं, नेचुरल गार्जियंस हैं जैसे दादा, भाई, चाचा और हम जानते हैं कि बड़ा भाई बाप की जगह काम करता है उसको यह कहना कि तुम्हारा कोई हक नहीं, चाचा का कोई हक नहीं है, यह वाजिब और दुरुस्त नहीं है और ऐसा करके आप माइनर्स का कोई फायदा नहीं कर रहे हैं। फर्ज कीजिए कि भाई या चाचा कोई खराब काम भी कर दें, थोड़ी बहुत उस नाबालिग की जायदाद को खत्म भी कर दें तो भी क्या, मैं पूछना चाहता हूँ कि सरकार कहां से उनके लिये करोड़ों ऐसे गार्जियंस लायेगी जो इतने इमानदार होंगे और जो उन नेचुरल गार्जियंस के बनिस्बत उन नाबालिग बच्चों के हक की तरफ ज्यादा तबज्जह करेंगे। मेरी समझ में इस मुल्क की खास हालात को देखते हुए नेचुरल गार्जियंस को इस का हक न देना सख्त बड़ेसाफी होगी और नेचुरल गार्जियंस की जैसी तारीफ आपने इसमें रखी है जो नती हिन्दू



ला में हैं, न मुस्लिम ला में हैं और न ही क्रिश्चियन ला में हैं और यह दुरुस्त होनी चाहिये। एक शस्त्र एक लड़की को सारी उम्मेद के वास्ते एक इंसान के सिपुर्दा कर सकता है 'एज ए गार्जियन आफ हर परसन' और 'एज ए गार्जियन फार मौरिज' लेकिन वह उसकी चार बीघे जमीन या साँ, दो साँ ख्ये के मकान को उसकी भूख और प्यास मिटाने के वास्ते मुंतीकल नहीं कर सकता। यह तो उसको हक है कि सारं जिस्म को दं दं, सारी लड़की को शादी में दं दं क्योंकि ला के मुताबिक वह गार्जियन फार मौरिज है लेकिन गार्जियन फार प्रापरटी नहीं है। जायदाद के बारे में जब यहाँ सवाल पेश था तो मंरं दोस्त कहते थे कि प्रापरटी इज आल थ्रेफ्ट और यहाँ हम दंखते हैं प्रापरटी इतनी प्यारी है, परसन से भी ज्यादा उनको प्रापरटी प्यारी है। मेरी नाक्स राय में यह सारा का सारा बिल बिल्कुल गैर जरूरी है और इसका रिजल्ट दंश के ऊपर डिजाबस्ट्रस हो सकता है क्योंकि यह हिन्दू ला का इंसटालमेंट नहीं है। इसका हिन्दू ला से वास्ता नहीं है अगर इसका वास्ता है तो गार्जियन ला से है। एक चीज जो इसके अन्दर सास बनी है वह यह है कि इसके बीरये और तों लों कुछ ज्यादा हक्क दिये गये हैं।

मसलन् एक नाबाशिग बच्चे के बाप के बाद अगर उसकी मां मौजूद हो तो उस बच्चे का गार्जियन मां को रहना होगा, भूइं इससे इस्तलाफ नहीं है लेकिन मं इस बारे में अपनी हिन्दू बीहनों, मुसलमान बीहनों और क्रिश्चियन बीहनों में कोई फर्क नहीं चाहता। मुसलमान और क्रिश्चियन मां भी अपने बच्चों को उतनी ही मुहब्बत करती हैं जितनी कि एक हिन्दू मां अपने बच्चे से मुहब्बत करती है, इसीलिये मां की गार्जियनशिप के बारे में इन तीनों कॉमों में कोई फर्क नहीं होना चाहिये। आप इसके लिये गार्जियंस एन्ड वार्ड्स एक्ट में तरमीम करे, एंसी बात नहीं है कि आप दंश हित के लिये कोई मंजर तबदीली करे तो हम उसको सपोर्ट न करे लेकिन आप हिन्दू ला के बहाने से कोई एंसी

चीज करना चाहें जिसको सारा दंश नहीं मानेगा और जिसके अन्दर हिन्दूओं का नुकसान होता हो, उसको जरूर हम मानने को तैयार नहीं हैं। यह असल में हिन्दू ला के बरखिलाफ है। कॉन्डीफिकेशन का यह मतलब नहीं होता कि आप असली हिन्दू ला जो इतने वर्षों से चला आया है बिला वजह उसको आप तबदील कर दें। क्या आपके पास कोई एंसी शिकायत आयी है या एविडेंस पेश की गयी है? यह सारा ला आपका खराब है। इससे तो दंश को नुकसान पहुँचता है। इन वजहों से मं अब से अब करना चाहता हूँ कि संलैक्ट कमटी में इस बिल को ले जाने से लम्बा चौड़ा फायदा नहीं होगा। दंश के अन्दर जो कुछ खर्च होगा और यहाँ पर उसके ऊपर जितनी मेहनत की जायगी, बंधतर यह होगा कि गार्जियंस एन्ड वार्ड्स एक्ट में तरमीम करने के वास्ते कोई बिल लाइये। मं यह नहीं मंजर करता कि हिन्दू ला आफ गार्जियनशिप और गार्जियनशिप का ला यूनीफार्म नहीं है। भारतीय संविधान की धारा ४४ में दिये गये डाइरैक्टिव प्रिंसिपल्स में एक यूनिफार्म कोड बनाने का जो आदेश है, वेंसा यूनिफार्म कोड हमारे सामने आया है, एंसा मं नहीं मानता। हिन्दू की कुछ उम्मेद और मुसलमान की कुछ उम्मेद, मं एंसे कोड को हाथ लगाने को तैयार नहीं हूँ। यूनिफार्म कोड के साथ खिलवाह करना और उसको एंसी शक्ल देना जैसे हिन्दू पानी और मुसलमान पानी दुरुस्त नहीं है, उसको नैसी करना दंश के इंसीशियल मफाद के बरखिलाफ है।

**Some Hon. Members rose—**

**Mr. Chairman:** Shri Subba Rao.

**Shri P. Subba Rao (Nowrangpur):**  
Mr. Chairman, Sir...

**Mr. Chairman:** The Deputy-Speaker had promised that he would call some lady Members, but none stood up. Therefore, I had to call another Member.

**Shri Tek Chand:** Mrs. Sen was in the process of getting up.

**Mr. Chairman:** I waited for some time, but none stood up. Therefore, I had to call the hon. Member.

**Shrimati Uma Nehru** (Sitapur Dist. cum Kheri Dist.—West): We did not stand because we did not know whether you would give us a chance. Otherwise, we would have stood up.

**Mr. Chairman:** Should the promise precede the standing up? Mr Subba Rao may proceed with his speech.

**Shri P. Subba Rao:** This Bill is ill-conceived, unnecessary and full of lacunae. Unfortunately, there is a craze for codification, and Parliament is now sitting for 200 days in the year; and when considering the rate at which Bill after Bill is introduced in Parliament, even if we sit for 300 days, the Bills cannot be finished. And this craze for codification has come in. Especially in respect of laws that will grow by custom, there is no necessity to codify. In England, I read, most of the laws are not codified—the law of property, the law of contracts and all other laws. But in India, probably the British had set in this codification; and with regard to the personal laws of Hindus and Mohammedans with regard to marriage and divorce, they have kept them apart. They are now studying the Hindu and Mohammedan law, and the craze has set in to codify this Hindu law.

Our Government professes that it is a secular State. At the same time, it constantly reminds us that there are several religions, and our national flag is a constant reminder that there are several religions. The deep orange is significant of the Hindus, the green of the Muslims and the white of the Parsees, Christians and Jews. Of course, there are flags having these colours in other countries but these colours have no significance except in India.

Our Government wants to give respect to both. One section of the House wants that there should be a

uniform civil code and there should be only secular laws and all religions should be done away with, while another section of the House resents interference in religion. Of course, both have got justification because the Government is in a way, encouraging both. We have got the Special Marriage Act which reminds us that our society is secular, and there is the Hindu Marriage and Divorce Bill which, at the same time, tries to please the Hindus—simultaneously displeasing them by interfering on matters which ought not to be interfered with by the Government. There is also the Guardians and Wards Act which is, more or less, secular, and now they have brought in the Hindu Minority and Guardianship Bill. Tomorrow a Mohammedan Minority and Guardianship Bill may come. Then, with regard to the right of inheritance, there is already a Succession Act, but another piece of the Hindu Code, the Inheritance Bill, will come.

We have to consider whether there is any necessity for codification of existing laws. There is already a Hindu law with regard to minority and guardianship. Society is not static; it is growing and progressive. But a section of the people want to introduce revolutionary changes. We have to consider whether any changes are necessary, and then only there is place for codification. For example, one such is the supplementing of the fundamental rights declared by the Constitution, that equality of status and opportunity will be given to all. That must be supplemented. We find that a section of Indians are treated as untouchables and so to remove that untouchability, to uphold the fundamental rights declared by the Constitution, an Untouchability (Offences) Bill is quite necessary.

**Shri B. S. Murthy** (Eluru): Only Bill. not untouchability!

**Shri P. Subba Rao:** A Bill that gives equal opportunity and equal status to

the so-called untouchables is quite unnecessary—I can understand that.

We know that child marriage is an evil born of Hindu society. The society felt that that evil should be put an end to, and there is the Child Marriage Restraint Act. Another thing is that if you want to introduce any changes in law, where people feel that some changes are necessary, that can be done by bringing in special Bills to modify the existing laws. For example, a section of the people felt that marriage between *sagotras* should be allowed. I believe there is a Bill validating *sagotra* marriage. In such a way, we can introduce changes, that is, by supplementing Bills. But there is no necessity to change the whole of the Hindu law once for all. Again, to set right conflicting judicial decisions, sometimes a Bill is necessary.

Applying these tests, I find that there is no necessity to introduce this Bill at all. Another point is that piecemeal legislation, instead of doing good, may bring in complications. The Hindu Minority and Guardianship Bill which is now introduced here infringes on the rights of coparcenary and other things. Of course, I will come to the point whether coparcenary rights are excluded or not, but anyhow it infringes on their rights. This cannot be considered piecemeal, without a law of inheritance and a law with regards to debts, alienations etc. under the Hindu law. From that point of view, this is ill-conceived, because it already anticipates changes in the other portions of Hindu law such as the law of inheritance.

Another point is that there cannot be a uniform civil code unless there is a uniform religion for the whole of India. So far as marriage, divorce and other things are concerned, each religion has got its own rules. If we want to have a uniform code, there should be a uniform religion for the whole of India. So on that ground, I oppose the idea of having a uniform civil code except in matters which are

not religious, such as regulation and procedure in Courts and the way in which evidence has to be taken and so on.

Coming to the Bill itself, this Act applies to any person who is a Hindu by religion etc. and any other person domiciled in India who is not a Muslim, Christian, Parsi or Jew. Probably this includes the aboriginals who are sometimes treated in the census reports as not Hindus. There are also followers of the Radhaswami, Saibaba and Haranath faiths. All these persons are not included, though followers of the Brahmo, Prarthana and Arya Samaj are included. Then comes (c) which says:

“any other person domiciled in India who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that any such person would not have been governed by the Hindu law or by any custom or...”

With regard to clause 3, ‘minor’ means a person who has not completed the age of eighteen years. I am of opinion that the age of majority should be fixed at twenty-one. As soon as a person attains the age of eighteen, he is not competent to dispose of his property. I have seen instances where people have become beggars within a year of their attaining majority. I know the case of a prince who was given his kingdom at the age of eighteen—of course, it is now integrated—who squandered away all his wealth amounting to several lakhs of rupees. A voter is not given the right to exercise franchise till he is twentyone; that means he is incapable of choosing his representative in the legislature till then. But now he is given the power to squander away his property. So I am frankly of the opinion that the age of majority should be fixed at twenty-one. (Interruptions).

Coming to clause 5 which says,

“The natural guardians of a Hindu minor in respect of the

[Shri P. Subba Rao]

minor's person as well as in respect of the minor's property (excluding his or her undivided interest in joint family property)...",

I fail to understand whether 'his or her' refers to the guardian or the minor. Of course, the intention of the Bill seems to be to refer, probably, to the minor, but that is not clear from the wording 'excluding his or her undivided interest in joint family property'. Then it says: 'in the case of a boy or unmarried girl—the father, and after him, the mother'. Why after him? Sometimes the father may be disabled, in which case the mother should be the guardian. He may be of unsound mind, he may be suffering from leprosy or some other contagious disease and unable to manage or look after the affairs. So the phrase, "the father and after him the mother," is most unwise

Then, it is said:

"provided, that the custody of a minor girl who has not completed the age of three years shall ordinarily be with the mother:"

The boy or girl cannot be separated from the mother just immediately after the completion of three years. Where we have no authority, we have to look to other religions and take guidance. Under Muhammadan law, I think the custody of a child up to the age of seven is given to the mother. I do believe that the age of three years should be raised to seven.

With regard to sub-clause (c), in the case of a married girl, the husband is supposed to be the guardian. I do not want to cover the same ground which has already been covered by some of my friends. Though the marriage laws disable a person to marry unless he attains the age of 18 years, there are several cases where minors are married and the law only says that the marriage cannot be declared invalid but there may be a penalty. And, so, here are minor husbands. Supposing the minor takes the guardianship of the wife and dies

immediately. There is a lacuna here. Is it the husband's relations that are to take charge of the property or the father?

Then, there is the provision:

"Provided that no person shall be entitled to act as the natural guardian of a minor under the provisions of this section—if he has ceased to be a Hindu..."

That means that if the mother ceases to be a Hindu she can continue to be the guardian while the father cannot, unless we assume that he includes she

Clause 6 says that the natural guardianship of an adopted son who is a minor passes, on adoption, from the family of his birth to the family of his adoption. "Family" is a wide term and it may include not only the father and mother of the adopted son but also other relatives. So, while clause 5 defines the natural guardian as the mother and father of the minor, there is a different terminology here. The same terminology should be used here also.

Clause 7(2) says that the natural guardian shall not, without the previous permission of the Court mortgage or charge etc., any part of the immovable property of the minor. This unduly infringes upon the rights of the father. There is no case where the father abuses the right. Where the father abuses the right of protecting his son, then the next friend can resort to the Court and have it set right. If for everything the father has to go to the Court, he will have to spend lots of money and that will not be in the interest of the minor. We know nowadays that litigation is costly and there is any amount of delay. Even the power of lease is strictly restricted to five years. That is unnecessary, and the lease may continue for any length of time provided it does not exceed more than one year beyond

the date of the minor's attaining majority.

Then, it is provided that a Hindu father may appoint a testamentary guardian for any minor children in respect of the minor's property, (other than the undivided interest referred to in section 12) or in respect of both; provided that nothing shall be deemed to authorise any person to act as the guardian of the person of the minor so long as the mother is alive and is capable of acting as the natural guardian of her minor child. So, the father has no power to appoint a testamentary guardian in preference to the mother. The father is the best judge. When he knows that the mother is incapable of managing the property of the minor, he should be given the power to appoint a testamentary guardian. Even if the mother is alive, the father knows whether she is capable of acting or has the capacity to act or not.

Generally women in our country, most of them, are not educated and are not capable of managing the property of minors with prudence. Of course, they have no bad intention but they have not got sufficient worldly experience and they may be cheated by others. In this connection, I may say that in ancient Roman law, women were prohibited to be sureties. Originally women were given rights over property and very soon they squandered away the property and so, immediately, there was an amendment that they should not be accepted as sureties because once they stand as sureties when the time comes, the property is gone.

Secondly, the German philosopher Schopenhaur gave credit to the Hindus. These are his words:

"Of all the nations in the world, it is the Hindus that know how to respect a woman and how to control the property, at the same time."

And, he quoted Manu as saying that a woman should be under the guardianship of her father, husband or son and perpetual guardianship of

the woman is justified. This is accepted by a German philosopher who had never seen India and he gave credit to Manu for limiting woman's rights over property, that they can enjoy the property, the annual income, but cannot dispose of the property, because men alone earn and they alone understand the difficulty and women are never allowed to dispose of property. He has praised Manu to the skies.

**An Hon. Member:** Antiquarian notions.

**Shrimati Sucheta Kripalani:** He was very anti-woman.

**Shri K. K. Basu:** Increase the representation of women.

**Mr. Chairman:** The next chance to speak is going to a woman.

**Shri P. Subba Rao:** Is it possible not allow a *de facto* guardian to deal with property at all. Supposing the father dies and there is no mother. What is to happen? What is to happen to the dead body of the father? There may be no money in the house. Even for the funeral rites you will have to go to Court.

**Acharya Kripalani (Bhagalpur cum Purnea):** Let the dead bury their dead.

**Shri P. Sabha Rao:** Is it possible for the man to run to the Court keeping the dead body inside the house? The performance of funeral rites has been regarded as religious by the Hindu society. What about the protection of the children when the father dies leaving no cash, or with little property with which the guardian cannot interfere? The child must be thrown into the streets. This clause 11 is unnecessary.

Then I come to clause 12. It reads:

"Where a minor has an undivided interest in joint family property and the property is under the management of an adult member of the family, no guardian shall be appointed for the minor in respect of such undivided interest;

[Shri P. Subba Rao]

Provided that nothing in this section shall be deemed to affect the jurisdiction of a High Court to appoint a guardian in respect of such interest."

Of course, the proviso says that the High Court may appoint. That clearly shows that this is testamentary guardian. How can there be a testamentary guardian so long as the father is alive? So long as he is alive, he would be the manager of the property but not any other adult member of the family. The language is vague.

Then to approach the High Court would be rather too costly. There should be a limit, say, for property worth Rs. 1,000 or Rs. 2,000, the High Court need not be approached. It should be the District Judge. In my opinion, there should be no limit to the power of the District Judge. The District Court should be competent to appoint. And, if there is anybody who feels aggrieved, he may have a right of appeal to the High Court. So, High Court should be deleted and in its place, District Court should be substituted. I am of the opinion that even subordinate courts like the Munsif's court should be competent enough for this purpose of appointing the guardian. If there is any injustice then there can be revision.

With these few observations I resume my seat.

**Shrimati Uma Nehru rose—**

**Shri Pataskar:** The debate is to close at 3 o'clock.

**Mr. Chairman:** Yes, I know, but how long does the hon. Minister like to have?

**Shri Pataskar:** There are about 20 minutes now. Ten minutes may be given to the hon. Member who has risen.

**Mr. Chairman:** Yes.

श्रीमती उमा नेहरू: जनाब चंयरमैन साहब, मैं ज्यादा बक्त नहीं लूंगी क्योंकि मैं जानती हूँ कि अभी सरकार को भी बचाव देना है। मैं बहुत दूर से व्याख्यान सुन रही हूँ और स्त्रियों के बारे में कोई ऐसा पहलू नहीं है जिसकी चर्चा न हुई हो। उनके बारे में कहा गया कि नाकाबिल हैं, वह इतनी काबिल नहीं हैं कि उनको इतना अधिकार मिल सके, वह प्रार्थी को मॉनेज नहीं कर सकेंगी, वह इग्नोरेंट हैं, वर्गरेह वर्गरेह। मैं अपॉजीशन के भाइयों से कहना चाहती हूँ कि उनको अपॉजीशन के लिए इन बातों को नहीं कहना चाहिए था। मैं ने देखा कि चटर्जी साहब जब बोल रहे थे तो वे हंसते जाते थे, जिससे मालूम होता था कि उनको खुद उन बातों पर यकीन नहीं है, पर वह अपॉजीशन के तिहाज से उनको कह रहे हैं। मैं चाहती हूँ कि जो बिल हमारा सामने आया है अगर उस में कुछ गलती है तो उसको ठीक किया जाए। इसीलिए सिलेक्ट कमेटी मुकर्रर की गई है। लेकिन मैं यह नहीं मानती कि इसके आने की जरूरत ही नहीं थी। जब आज ला का कोडीफिकेशन हो रहा है तब तो इसके आने की जरूरत अवश्य थी। यह चीजें हलके हलके आवेंगी और फिर सब मिल कर एक चीज हो जाएगी। मैं नहीं चाहती थी कि हिन्दू कोड बिल इस तरह टुकड़े टुकड़े हो कर आता। लेकिन हमारा कुछ भाई इतने दिकयान्सी ख्यालात के हैं कि उनकी बजह से हिन्दूकोड बिल को पूरा नहीं लाया जा सका। मुझे तो यह देख कर बहुत दुःख हो रहा है कि इसको पूरा न लाकर हम इसको टुकड़ों में ला रहे हैं। मैं तो चाहती थी कि हिन्दूकोड बिल सारा का सारा आता। फिर भी आज मुझे खुशी है कि चाहे टुकड़े टुकड़े हो कर ही सही आ तो रहा है। हमको उन्नतित करना जरूरी है। जब इस तरह के कानून लाए जाते हैं तो अक्सर उनकी मुस्तालफत करने के लिए क्रीषियों और मूनिश्यों का नाम लिया जाता है। मैं तो कहती हूँ कि अगर आज वे क्रीष और मूनि जिन्दा होते तो वह भी बदल जाते और हमारी तरफकी होती। अगर वे लोग आज जिन्दा होते तो उनके विचार भी बदलते।

दूसरी बात प्रापर्टी के बारे में कही गई कि बच्चों की प्रापर्टी का गार्जियन कौन हो। बच्चों के लिए मां के सिवा और कौन गार्जियन हो सकता है। मेरी समझ में यह बात नहीं जाती कि बाप के मरने के बाद चूँक मां इतनी काबिल नहीं हैं, क्योंकि उसको इतनी शिक्षा नहीं है, इसलिए दूसरे आदमी को बच्चों की प्रापर्टी का गार्जियन मुकर्रर किया जाए। मैं तो समझती हूँ कि यह एक औरत के लिए बहुत बड़ी ज़िम्मेदारी होगी अगर उसके बच्चों के लिए कोई दूसरा आदमी गार्जियन मुकर्रर किया जाए। यह तो हमें बिल्कुल बरदाश्त नहीं है और मैं तो कहती हूँ कि सिलेक्ट कमेटी इस पर तो बिल्कुल विचार ही न करे। मुझे सिर्फ यही कहना है कि बच्चों की कस्टडी उसकी मां को दी जाए। हमारे मद्रास के भाई जानते हैं कि ट्रावन्कोर-कांचीन में और मलानाबार में जहाँ पर मीट्रियार्कल सिस्टम है वहाँ पर औरतें ही सारा इन्तजाम करती हैं, वही सारी प्रापर्टी को संभालती हैं। इससे किसी को शिक्षायत नहीं है। तो फिर आज यह कैसे कहा जा सकता है कि दक्षिण में तो स्त्रियाँ, प्रापर्टी का इन्तजाम कर सकती हैं पर उत्तर भारत में वैसा नहीं कर सकती।

मुझे इस वक्त एक बात याद आ गई। लखनऊ में एक रईस थे। मैं उनका नाम नहीं लूँगी। उनकी स्त्री पढ़ी लिखी नहीं थी पर उसमें स्ट्रॉंग कामन सेंस थी जो कि किसी भी कानून से ज्यादा अच्छी होती है। उन रईस साहब की हालत यह थी कि वह नाथ रंग में अपनी सारी प्रापर्टी को खत्म कर रहे थे। उस औरत ने जो कि बिल्कुल पढ़ी नहीं थी एक अर्जी गवर्नमेंट को दी कि मैं और मेरे बच्चों बिल्कुल वगैर पैसे के हो जाएंगे क्योंकि मेरे पति ऐसे आराम में मस्त हैं। तब गवर्नमेंट उस प्रापर्टी की गार्जियन बनी और उस प्रापर्टी को कोर्ट आफ वार्ड्स में ले लिया गया। आज कहा जाता है कि ये औरतें अपने बच्चों की कस्टडी के काबिल नहीं हैं। मैं उन भाइयों से जो यह कहते हैं यह पूछना चाहती हूँ कि जो रुपये वह अपने घर ले जाते हैं उसको इतनी हिफाजत से उनकी

स्त्रियाँ रखती हैं उतनी हिफाजत से वे खुश नहीं रख सकते। मैं कहती हूँ कि औरत को जिम्मेदारी बहुत होती है। अगर औरत को अपने बच्चों की जिम्मेदारी न दी जाए तो यह समाज के साथ बँडसाफी होगी।

यह भी कहा गया कि हमको समाज के साथ चलना है। ठाकुर दास जी ने कहा कि समाज की जो हालत है उसके साथ ही हमको चलना है। तो मैं उनसे कहूँगी कि समाज तो बहुत आगे बढ़ गया है, उसेको यह नहीं दिखाई देता है। लेकिन अगर समाज आगे बढ़ गया है और उनको ऐसा नहीं दिखलाई देता है तो इसमें हमारा क्या दोष है। हम रोज देखते हैं कि भारत के नौजवान आगे बढ़ रहे हैं और हमको रोज उनके लिए नए नए कानूनों की ज़रूरत महसूस हो रही है। यह जो कानून सिलेक्ट कमेटी में जा रहा है इसको हम पूरी मदद करेंगी। हमको समाज में माता और पुत्रीया का स्थान दिया गया है और हमको आदरणीया कहा जाता है। मुझे आशा है कि इस बात को ध्यान में रखते हुए सिलेक्ट कमेटी इस बिल पर विचार करेंगी और हमको अख्तियार देंगी कि हम अपने बच्चों की और उनकी प्रापर्टी की देखभाल करें।

**Mr. Chairman:** There are only about 20 minutes left. I find one more Member, Sardar Iqbal Singh, wishing to speak for the first time—his maiden speech. If he would be finishing his speech within five minutes, he may speak.

**सरदार इकबाल सिंह (फाजिल्का सिट्टा):** ब्रनाब साहिबों सदर, मुझे तो उम्मीद नहीं थी कि आप मुझे बोलने का मौका देगे क्योंकि वक्त बहुत थोड़ा रहे गया था और वह भी मैनिस्टर साहब का था।

मैं इस बिल पर अपने ख्यालात इस नार्त रखना चाहता हूँ कि यह बिल सिक्स कम्युनिटी पर भी लागू होगा। बहुत से भाई इसकी मुस्ता-लितफ कर रहे हैं। उनका ख्याल है कि सामा-जिक कानून में तब्दीली नहीं होनी चाहिए

[सरदार इकबाल सिंह]

क्योंकि ऐसा करने से उस समाज पर और उस मजहब के मानने वालों पर बुरा असर पड़ेगा। मैं समझता हूँ कि आजकल के जमाने को देखते हुए हमको अपने कानूनों में तब्दीली करनी चाहिए। मैं अपने बुजुर्ग ठाकुर दास जी से इतिहास नहीं करता कि इस बिल को लाने की कोई जरूरत ही नहीं थी। यह तो हिन्दू कोड बिल का एक हिस्सा है। इसके कुछ हिस्से अभी राज्य सभा में हैं, और कुछ और आने वाले हैं, और क्योंकि उन बिलों का असर खासतौर पर बच्चों और नाबालिगों पर पड़ेगा जो कि उनकी जद में आदोंगे, इसलिए मैं समझता हूँ कि इस बिल का लाना जरूरी था।

इस बिल की मुस्तालिफत की जा रही है, लेकिन मैं समझता हूँ कि आज जब कि जमाना बदल रहा है और इस सबब से समाज में कुछ दुर्रियाँ आ रही हैं, उस वक्त उनको दूर करने के लिए कानून की जरूरत थी। आजकल खासतौर से ऐसे हालात हैं जब कि जमीन के मुताबिक कानून बदल रहा है, मैं समझता हूँ कि बच्चों और नाबालिगों के हुक्म को महफूज रखने के लिए इस तरह के कानून के लाने की जरूरत थी। लेकिन इसके साथ साथ मैं यह भी देखता हूँ कि इस बिल में जो दफात आई हैं उनसे मकसद पूरा नहीं होता। इस बिल में जो दफात हैं वे पहले के बिल से भी कमजोर हैं। आज के जमाने में जब कि प्रायर्टी के सिलसिले में रोज कानून तबदील हो रहा है गार्जियन को उसकी रखवाली करने के लिए बहुत कम ताकत दी गई है। इस बिल से जो ताकत गार्जियन को दी गई है वह मैं समझता हूँ कि पहले बिलों से भी कम है। इस बिल में जो ताकत दी गई है वह सन् १९६० के गार्जियन एंड वार्ड्स एक्ट से बहुत कम है। मैं समझता हूँ कि आजकल के कम्युनिकेटेड हालात में यह बिल कामयाब नहीं होगा। हम देखते हैं कि जब भी कभी कोई सामाजिक सुधार का बिल आया, उसकी मुस्तालिफत इस बिना पर की गई कि उसके जरिए से मजहब अथवा धर्म में तबदीली होगी और जो लाइन आफ आर्गुमेंट्स और जिस

फिस्म की मुस्तालिफत आज से सौ साल पहले या एक सौ पचीस साल पहले की जाती थी, वही आज फिर सुनने को मिल रही है। हमारे वहां जब सती प्रथा को रोकने का बिल आया था उस वक्त जिस ढंग से मुस्तालिफत की गई थी वही वज्रहात आज भी दिए जा रहे हैं कि हमारे धर्म को बदला जा रहा है। वही वज्रहात हमेशा उन लोगों की तरफ से दिए जाते हैं जो कि समाज को एक जगह बांध कर रखना चाहते हैं, जो चाहते हैं कि समाज में कोई तब्दीली न हो और समाज को स्टैटिक रखना चाहते हैं। वही लाइन आफ आर्गुमेंट्स आज भी सुनने में आई हैं। इस बिल की दफा १२ का मकसद नाबालिग बच्चों के लिए गार्जियन्स मुकरर करने का है और जाहिर है कि कोई गार्जियन्स एक्ट जो कि उनकी बंहतरी के लिए नहीं होगा वह एक्ट रिवाकेकुल है।

[MR. DEPUTY-SPEAKER in the Chair]

**उपाध्यक्ष महोदय :** अब आपको अपनी स्पीच खत्म करनी चाहिए।

**सरदार इकबाल सिंह :** इन चन्द अल्फाज के साथ जैसा आपका हुक्म है, मैं ज्यादा न कह कर इस बिल का समर्थन करता हूँ।

**Shri Pataskar:** Sir, I have been listening very carefully to the debate in this House on this simple social measure which need not have created, I think, such long discussions. Unfortunately, on an analysis of what I have been able to hear, I find that suspicion, prejudice and misconception are at the bottom of many of the criticisms which have been levelled at this Bill.

As I said in the beginning, this is a part of the Hindu Code which at one stage was introduced, discussed, Select Committee was appointed and it went through so many stages, and this is one of the most simplest parts of that Code.

Naturally, those who are opposed, either by prejudice or on some other



grounds, to the codification of the Hindu Law form one category of the critics of this Bill. Probably their idea is that there should be no codification of the Hindu Law. But, I fail to understand this: that their faith in Manu and Yajnya Valkya need not drive them to the conclusion that there should be no codification of the Hindu Law for the simple reason that, when I listened to the debate, most of the eminent lawyers and eminent persons of the legal profession who referred to this question, referred to Mulla's Hindu Code which was an unofficial and unauthorised attempt to codify Hindu Law that is administered in different ways at the present moment. It appears they have no objection to that Code on which they rely—even the advocates who are outside this House—but, they have every sort of objection to the codification of Hindu Law. What can I say, Sir? It is no good invoking the names of Manu and Yajnya Valkya. After all what they did was, one 2000 years back and the other 1400 years back. If we try to stick, to adhere to the words and to the arrangements which they then suggested for a society which existed in those days, I think even Manu himself, if by any chance he is in Heaven—or somewhere else I don't know—will change his suggestions now.

**Mr. Deputy-Speaker:** Why should the hon. Minister grudge even that?

**Shri S. S. More:** He is doubtful about the future of the law-makers.

**Shri Pataskar:** Apart from that, in all seriousness I would say—and that is what I am trying to—that I am not one of those who will say that all that Manu did 2000 years back should be condemned by circumstances that exist in the year 1954. But, I am one of those who feel that we can see what he did; what are the basic principles and if we adhere to them, then only what we are trying to do now is the right thing. The Hindu Law is not a static thing. Manu never meant it to be so and I do not think

any of the commentators who changed it or the customs recognise it. All that point to one factor: that the Hindu society itself—by whatever name you may call it—is not static. It is a dynamic process and it is right that in the year 1954 we should take note of the changing circumstances and the changing times. We should try to adapt our laws to the conditions that exist and the Hindu Code is a humble and small attempt in the process of evolution.

For the satisfaction of my learned friend Shri V. G. Deshpande who is here, even if you refer to Manu, Manu himself has said:

वेदोऽखिलं धर्ममूलं स्मृतिशीलं च तद्विदाम् ।  
आचारसर्वत्र साधूनामात्मनस्तुष्टिरेव च ॥

These are the principles on which he based his law. It is not that what Manu wrote 2000 years back; what was good in those times will be good now in the year 1954. Even his admirers will not say that. Now, I need not dilate on that point. That is why I said that part of the criticism mainly rest on the plea that this part of the Hindu Code.....

**Shri Mand Lal Sharma (Sikar):** What is meant by आत्मनस्तुष्टिः ?

**Shri Pataskar:** I know Sanskrit fairly well though I may not be as great a Shastri or Pandit as my hon. friend.

Therefore, I would say, that on that ground there is one kind of objection.

The next thing is we should see what is being done in this Bill. Let us look at it not merely from the point of view of that it is a part of the Hindu Code, but as a piece of what we are doing now on its merit. Then you will find, as I said, that except in some small particulars it entirely conforms with the existing law with regard to the minors among Hindus, only with some variations to which I will come to. On that point, Sir, I claim on the authority of Manu himself that this House has got a right to amend and make suitable laws for the protection

[Shri Pataskar]

of minors because the Hindu Law vests the guardianship of the minor on the sovereign. This is not an English thing. This is from Manu, Chapter VIII, verse 27. Even in his days, as I said, the basic principles are there. If unfortunately the parents die, there is a minor and nobody takes care of it, even Manu recognises that there must be somebody and in case there is none it is the sovereign who will be there. Now, Sir, in the year 1954, sovereigns have gone and the sovereign Parliament is there. Therefore, it is the duty of the Parliament now to make adequate provision for the protection of minors. That is what is being done. You may criticise and you may say that there are some failings. That I can very well understand. I do not understand those learned erudite gentlemen who oppose this merely because something is done by Parliament. Why not we do it?

Another argument which is levelled is that while there is article 44 why do you enact this only for Hindus and not for Muslims and others. Article 44 clearly supports what I am doing now. It says:

"The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

It only says that "The State shall endeavour..." because the Constitution makers also knew that such a task cannot be done immediately. So far as the Hindu Law is concerned there are so many texts and so many interpretations by different codes. Therefore, an attempt is being made to codify them. It is, therefore, as I said, the process of codification of Hindu Law is nothing but an endeavour as envisaged in article 44 to secure for the citizens a uniform civil code. My learned friends who spoke so much about a uniform civil code, I do not know whether ultimately when it comes they will stick to what they say now. But, I can say one thing: that we believe that this Hindu Code is an endeavour on our

part to first of all consolidate a very large section admittedly. Because, as was said, it may be applied to Hindus who form a large portion of the people and it will, so far as possible create some unity among them in the first place. Then we will come to the next.

**Sardar Hukam Singh** (Kapurthala-Bhatinda). If I may be permitted to interfere.....

**Mr. Deputy-Speaker:** Intervene and not 'interfere'.

**Sardar Hukam Singh:** When Pandit Thakur Das Bhargava spoke the hon. Minister was not here. What he meant was that there is already a code for Hindus and Muslims so far as minority and guardianship is concerned. We are not going to achieve that object which we had laid down in article 44 but we are going against it by now making a law for Hindus separate from the Muslims. That is what he said.

**Shri Pataskar:** There is also the third type of criticism to which I am just coming to, but these are the two other criticisms. If it is there in the Hindu Code, why do you want this Bill? Virtually it amounts to this: Why is it necessary to have this Bill? Ultimately, some time or other we have to codify, as I said, the branches of the Hindu law and that is the only justification for bringing forward this Bill. We have got the Marriage and Divorce Bill; we are going to have the Hindu Minority and Guardianship Bill passed and we are shortly going to have a further Bill relating to succession amongst Hindus. Therefore, there is no harm in bringing forward this Bill. What I find is that much of the criticism was based on prejudice, suspicion and fear that this is part of something which is to come before and that it is much better to strike it even at this stage. Otherwise, this is a very innocent measure. There is the Guardians and Wards Act, and the plea was made: Why not amend the Guardians and Wards Act? The Guardians and Ward Act is still

kept intact and this is only a supplemental provision to that Act, only in respect of Hindus, because we are trying to look at it as a part of the Hindu Code, and when the time comes for us to have a uniform Code, naturally it will be looked at from a different point of view.

I will try to analyse some of the criticisms with regard to the details of the Bill. With regard to the interpretations, etc., if there is anything that could be remedied, naturally the Select Committee will take all that into consideration.

About the major changes, first there was an attack on section 2. What is there in section 2? The section only tries to say as to whom the law will be applicable. As we know, at the present moment it is difficult to say it precisely and hence the smaller definition. The Rau Committee tried to frame a definition and what it did was that it put many things by way of illustration, and the Select Committee that was appointed by this House to consider that, instead of doing that, wanted to change it in the form of a section in which it has been put now. Therefore, if somebody suggests a method which would be more appropriate for the purpose, naturally the Select Committee will look into it. The only object is that we want to make this law applicable to all except Christians, Muslims and Parsis, for whom there are some other provisions. Beyond that if it is possible to improve the definition—I think it is hardly possible—the Select Committee will certainly consider it.

Then I go to the application of the Act. The definition of 'minor' is given as a person who has not completed the age of eighteen years. There is hardly anything which could be said to be objectionable there. In the Indian Majority Act, this is in force from 1875, and the age of majority there is approximately correct, and there is no harm in keeping it at that level. We have tried to define who are the natural guardians and, therefore, this was necessary. Who are the natural guardians recognised in the

Hindu law? There are no such guardians recognised in the Muslim or Christian laws. Therefore, this has been done and I also find that there is not any change made in that section. Much of the argument was based on the fact as to why we want this overriding section of the Act. It is true that some of the old Members were there in those days and there was no such provision in the original Hindu Code, but this was thought necessary when the matter went to the Select Committee stage. What is the good of this Bill without this provision? We want to codify the law; we do not want the question of interpretation raked up in the court of law and it is to prevent that that this has been done, and there should be a provision like that as contained in clause 4. By 'natural guardians' we recognise only the father and the mother. Many Members vehemently argued that in joint families, there are uncles and cousins and what not, but at this stage I do not like to take up the question of joint families. So far as the Bill is concerned, I have tried to keep out discussion of that topic, who should be the natural guardians? If at all 'natural guardians' have to be recognised, they can only be the father and the mother and under this clause we recognise them as the natural guardians. We know that uncles at times may be good. So far as the present Bill is concerned, there is no bar against any uncle taking care of his nephew. The only thing is that he cannot interfere with the property of the nephew. If such uncles are only going to be good by being able to manage the property of the minor nephew, then it is better that some restriction is put on them. Good uncles will always continue to take care of their nephews, and there is nothing to worry about them so far as the passing of this Bill is concerned. They should not touch the property, which is not the property of the joint family, but which is the property of the nephew. At least we in Maharashtra know—and my friend Shri More also knows—the saying about the managers

[Shri Pataskar]

minors and there is certainly a prejudice against that. They are dealing with a property which does not belong to them.

The next provision which my hon. friend Shri Bogawat and some other hon. Members vehemently opposed was about the provision that the natural guardians shall take the permission of the Court before dealing with the property. Otherwise, the result has been a lot of litigation up till now. There are so many rulings of the Privy Council, and High Courts and there is a vast amount of litigation on that. Now, if we are trying to justify this on the ground that the uncle requires it for the education of the minor nephew or for the advancement of his interests, why should he not go to the Court? Supposing there is a very honest uncle, very much acting in the interests of the minor, very much in love with the nephew and it does become necessary, then what the law says is that he will make an application to the Court. All these cases likely to be so few.

**Shri Altekar:** But what time will it take?

**Shri Pataskar:** It might take time, but he will have to wait. The minor's property will be safe only after the permission of the Court. It belongs to the minor and he wants to dispose of it. Suppose the minor, after becoming a major, will have to go to the Court and the Court will have to see whether such disposal should be set aside. In fifteen years everything might disappear of the minor's property and so protection is the fundamental concern of the sovereign and even in the Hindu law, they make a provision that he will make an application to the Court and the Court's sanction obtained. How that can be shortened is a thing which we might consider at the Select Committee stage. That is a different matter. Does not our experience show that for years we put the minor in such a position that at the time when he

wants to agitate against the question of being alienated by the natural guardian, he finds it very difficult? Therefore, a simple provision has been provided that he will make an application to the Court. I looked at the wording of the Guardians and Wards Act and the provisions of section 29 are not applicable.

**Shri S. S. More:** Supposing he has gone to the Court and the Court has given permission, will it be *res judicata* if the minor becomes a major and complains that even this alienation with the permission of the Court is *mala fide*.

**Shri Pataskar:** I have examined the question, but I do not think it will be complete *res judicata*. In actual experience Shri More will find that if there is a minor's estate worth Rs. 10,000, and the guardian proposes to sell it, he goes to the market but nobody will offer him more than Rs. 3,000 or Rs. 4,000.

3 P.M.

**Shri S. S. More:** May I ask.....

**Mr. Deputy-Speaker:** Why should the hon. Members ask about it? If there is a guardian appointed by the Court, for selling the property of the minor that guardian has to apply for the permission of the Court. What happens to that will happen to this. Is it *res judicata* when a minor files a complaint or a suit for alienation? If it is *res judicata* there it will be *res judicata* here also. What is the good of going into those principles which he is copying here?

**Shri S. S. More:** With due deference, as far as the present position is concerned regarding Hindus, there is some latitude for the minors to contest alienations by his or her guardian.

**Mr. Deputy-Speaker:** He becomes a guardian now.

**Shri S. S. More:** Are we going to perpetuate some evil because it is already on the statute-book?

**Shri Pataskar:** That matter will be examined, because I do not think it is free from doubt.

**Shri S. S. More:** That is what I wanted to ask.

**Shri Pataskar:** But the initial objection raised is: why should we go to Court?

**Shri S. S. More:** There we agree.

**Shri Pataskar:** The fundamental object is that the property does not belong to him but to somebody else, which he is protecting. Therefore I do not see there is anything in this point. I believe this was the most hotly contested part of the Bill.

Then, reference was made to the provisions relating to testamentary guardian where it is said that "nothing in this section shall be deemed to authorise any person to act as the guardian of the person of the minor for so long the mother is alive". That also is consistent with the principle that we are enunciating that the father and the mother are naturally the best persons to take care of the interests of the minors. Therefore, even if the father makes a will and appoints a guardian, we do not want to deprive the mother of the guardianship. Suppose it is argued that a woman, on account of ignorance or illiteracy or bad association, is not fit to be the guardian. In that case anybody who is interested, any stranger even, can take advantage of the provisions of the Guardians and Wards Act and make suitable arrangements. Therefore, this also is a very simple provision. The whole idea is to codify the Hindu law with such modifications as are necessitated by the present times so far as this matter is concerned.

Then there was another question as to why, if the Hindu father changes his religion, he should cease to be the guardian. Well, the reason is obvious. At this stage we are going to make provision for the guardianship of minors who are Hindus. Naturally therefore it stands to reason that we should not in this Act say that anybody who ceases to be a Hindu and

changes his religion should be the guardian of a minor who is a Hindu. If that man, that Hindu father, by conviction wants to become, say, a Christian, nobody prevents him from becoming a Christian. But in that case it is also desirable that such a sober person who for certain reasons wants to change his religion, may as well cease to be the guardian of the minor so long as the minor has not reached age when he could decide for himself what religion he should accept. So there is nothing wrong in this provision. This matter has been considered by several committees, by Select Committees of this House, has been discussed in this House for the last fourteen years and more. Therefore I say that this is a very simple measure, and if at all there are some modifications necessitated, I am prepared to consider them in the Select Committee on their own merits.

As I said, clause 13 is the paramount clause in this Bill, and it gives an idea as to what we propose to do. Everything that is needed for the protection of the minor is being done under this Bill.

Then I was amazed to find that my friend Mr. Chatterjee raised an objection under article 15 of the Constitution. What is it? The article says that "the State shall not discriminate against any citizen on grounds only of religion". What is the discrimination? Not only that. There is clause (3) of the article which clearly says that "nothing in this article shall prevent the State from making any special provision for women and children." And this minority question is a question concerning children for which specifically the provision has been made that "nothing in this article shall prevent the State from making special provision".

**Shri S. S. More:** What about the different ages for majority?

**Shri Pataskar:** I will consider that. I am at present concerned only with the objection that was raised.

This is a very simple measure which is necessitated by the change in the

[Shri Pataskar]

circumstances of the society, and I hope it will receive the support not only of those who are anxious to have the Hindu Code early—because that is the common desire of at least the majority of us—but also of other sections who also I am sure will on a deeper consideration come to the conclusion that what we are doing now would have been done by Manu if he were alive today.

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

“That this House while concurring in the recommendation of the **Rajya Saha** that the House do join in the **Joint Committee** of the Houses on the Bill to amend and codify certain parts of law relating to minority and guardianship among Hindus made in the motion adopted by the **Rajya Sabha** at its sitting held on the 25th August, 1954 and communicated to this House on the 27th August, 1954:

(a) recommends to the **Rajya Sabha** that the **Joint Committee** be instructed to report on or before the 31st March, 1955; and

(b) resolves that the following Members of the **Lok Sabha** be nominated to serve on the said **Joint Committee**, namely, **Shri Narendra P. Nathwani**, **Shri Moreswar Dinkar Joshi**, **Shri Badshah Gupta**, **Shri Sohan Lal Dhusiya**, **Shri P. Ramaswamy**, **Shri B. L. Chandak**, **Shri Liladhar Joshi**, **Shri Mathura Prasad Mishra**, **Shri Mahendra Nath Singh**, **Shri Bheekha Bhai**, **Shri Raghubar Dayal Misra**, **Shri M. L. Dwivedi**, **Dr. M. V. Gangadhara Siva**, **Shri C. R. Narasimhan**, **Shri H. Siddananjappa**, **Shrimati Subhadra Joshi**, **Shrimati Pa Palchoudhuri**, **Shri Kanhu Charan Jena**, **Shri Bimalaprosad Chaliha**

**Shri Bhola Raut**, **Shri P. R. Kanavade Patil**, **Sardar Hukam Singh**, **Shri S. V. L. Narasimham**, **Shrimati Renu Chakravarty**, **Shri Anandchand**, **Shri Shankar Shantaram More**, **Shri Jaswantraj Mehta**, **Shri K. S. Raghavachari**, **Shri Bhawani Singh**, and **Shri H. P. Pataskar.**”

*The motion was adopted.*

#### PREVENTIVE DETENTION (AMENDMENT) BILL

**Mr. Deputy-Speaker:** The House will now take up the Preventive Detention (Amendment) Bill.

**Shri S. S. More** (Sholapur): It is a very innocent Bill!

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

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

I find that notice has been given of motions to refer this short Bill to a Select Committee and there is also a motion to circulate it for eliciting public opinion. In the normal course I would not have had any objection for reference of the Bill to a Select Committee or Joint Committee but in this particular case I am unable to take that course, for really there is nothing to consider about. The Bill is one of the shortest imaginable. It merely desires the House to change “1954” into “1957”, to extend the Act by another period of three years.

You must remember that two years ago, this House spent a considerable time, I believe days and days, in going over this Bill or rather this Act in great detail. Clause by clause it was considered. At that time, the Select Committee went into the Amending Bill at very great length and then it was open to a general discussion in this House. By consent

of the Government, the whole Bill was thrown open to amendment and discussion. The present Act represents the considered views of this Parliament—I emphasise this aspect—of this Parliament and the Bill as it emerged was one of the most sensible and from the point of view of the detenu himself, the most lenient that could be conceived of. There are many persons in India, competent persons, responsible persons, many State Governments who hold the opinion that this Parliament has gone to the length of making the Bill quite insufficient and inadequate to serve the purpose in hand. Therefore, there is nothing in this Bill which cannot be conveniently considered on the floor of the House in a measurable time: The time which the hon. Speaker has allowed for this discussion is, in my opinion, more than sufficient for a discussion of a Bill of this nature. Nothing is to be gained either by circulating it for eliciting public opinion or by referring it to a Select Committee. We represent public opinion here: I mean the whole Parliament.

**Shri K. K. Basu** (Diamond Harbour): We do not.

**Dr. Katju**: My hon. friends may say that they do not represent public opinion. It is open to them to say so. I claim that I represent the public opinion of the whole of India.

**An Hon. Member**: Which India?

**Dr. Katju**: There is nothing to be considered by a Joint Select Committee. Let us proceed to discuss it and finish it.

Yesterday, I had the honour of placing on the Table of the House a statement which gives all possible information from every angle which the House may require, for getting factual information. I should like to repeat it here for your preliminary consideration. The statement covers the year beginning with 1st October, 1953 and ending with 30th September,

1954. On the 1st October, 1953, there were under detention throughout India 154 detenus. I respectfully submit that the very size of this figure will go to show that the Act had been very very carefully and sparingly used by the State Governments.

**Shri K. K. Basu**: Then, why have it?

**Dr. Katju**: In many States, it had not been used at all. The State Governments either were too lenient or they did not find it necessary to utilise it. But, in the big States, in the important States like Bombay, West Bengal and some others, recourse had to be had to the Bill. Because in Calcutta, there is the great Ochterloney monument where you can hold meetings of all sorts and description and in Bombay you have the great maidans—I do not know what they call it there.

**Shri Gidwani** (Thana): The Azad Maidan. It was used by us to fight the freedom struggle.

**Shri K. K. Basu**: He has forgotten all that.

**Mr. Deputy-Speaker**: Freedom has been won.

**Dr. Katju**: Mr. Deputy-Speaker, am I to be interrupted in this way or am I to go on?

**Shri K. K. Basu**: We can also go on.

**Mr. Deputy-Speaker**: Let the hon. Minister continue.

**Dr. Katju**: The second thing that I would like the House to apply its mind to is that it would be a travesty of facts to say that this Act has been used in the past for the purpose of suppressing any political party—none at all.....—

**Shri V. G. Deshpande** (Guna): That is true.....

**Dr. Katju**:.....to those doctrines or political theories I do not subscribe. The Act was used for the

[Dr. Katju]

purposes strictly defined by Parliament. I shall come to that feature of the case in a moment. During the year, 154 was the stock with which we started. In the 12 months ending 30th September, 1954, altogether 280 people—I am not sure about 280, between 250 and 260 persons—were detained;

**Shri K. K. Basu:** In addition to that number?

**Dr. Katju:** Some by the order of the State Governments passed directly, but in the majority of cases, the orders were passed by subordinate authorities like the District Magistrate, Additional District Magistrates specially empowered in that behalf, and Commissioners of Police. You may remember that the Act prescribes that a person may be detained by an order passed by the State Government or he may be detained by the District Magistrates order. But in such cases, the District Magistrate is directed to communicate at once to the State Government and unless the State Government ratifies or approves of that order within 12 days of its passing, the order stands revoked. Therefore, while the District Magistrates had passed orders in many cases, in 227 cases throughout the whole of India, the orders were approved and in 54 cases, the orders were not approved.

Then came the subsequent procedure. You are familiar with that procedure. As soon as a man is detained, he is to be supplied with a very detailed statement called the grounds of detention. The High Courts and the Supreme Court have laid down very clearly that this statement of grounds of detention should not be a vague one, should not be an indefinite one, but should be precise and specific so that the detenu may know clearly and absolutely definitely as to why he has been detained. In some cases, I believe altogether in about 15 cases or

14 cases, the High Courts and the Supreme Court have ordered release on the ground that this statement of grounds of detention was not sufficiently specific. Then, the cases go to the Advisory Board. I may say here at the outset that the Advisory Board is a purely judicial body. It consists of three persons who are either Judges of the High Courts or who have been Judges of the High Courts or who are qualified to be appointed as Judges of High Courts. The Chairman must be either a Judge of a High Court or an individual who has been a Judge of a High Court. They are entitled to ask for any information they like, and allow any person they like to appear before them. The detenu is entitled to appear before them as a matter of right. They considered this matter most carefully. What was the result? The result was, while they ordered release in the case of 65 detenus—they thought that the grounds were not sufficient or that having been in detention for some time, it was enough—and they need not be detained any more—they confirmed the Government action in 123 cases. They thought that the Government's action was justified. Twenty-nine cases were pending when the year closed on the 30th September. I would remind the House that under the Act, the case must be referred to an Advisory Board within 30 days and the Advisory Board is enjoined to convey its opinion on the advisability or the propriety or otherwise of detention within six weeks. The decision of the Advisory Board is, therefore, available within ten weeks of the date of detention.

It may be interesting to note, Sir, that detenus took full advantage of the right of appearance before the Advisory Board. I remember in 1952 during the course of the debate I attached the greatest importance to this privilege which was being conferred upon detenus, and I said then, it is true that there was no right of



representation by lawyers before the Advisory Board, but they will find the members of the Advisory Board very sympathetic. They can talk with the detenus face to face, man to man and they can form their opinion as to the strength of the case whether it was well-founded or ill-founded. Indeed, if they were lawyers, the judges may become suspicious; but if they have a talk with the litigant, the natural tendency is to take a sympathetic view of the case. I found that 119 detenus took full advantage of the privilege given to them to consult lawyers and to have their statement by way of defence prepared with legal assistance and no less than 174 persons were present. They sought permission to appear before the Advisory Board and to put their case before the members of the Board. The Board sent for further information from the State Governments—they did so in 57 cases—and at the instance of the detenu, further information was called for and they considered 47 cases. The result of that was that at the end of the year 245 persons had been released either on the recommendation of the Advisory Board or by the State Governments themselves directly prior to the expiration of the period of one year or by the order of the High Court. Some people served out their period of one year and the net result was that on the 30th September, 1954, there were 131 persons in detention. I understand that out of these, some have been released during the next two months. I am not quite sure what the number to-day is.

The House would also have noticed this pamphlet entitled "Statistical information regarding the working of the Preventive Detention Act". In that book which was circulated, Hon. Members will find at page 14 that 104 persons were ordered to be detained for violent activities, indulging in such activities or preaching violence; 40 for goondaism; 8 for student agitation; 2 for impeding essential supplies by inciting workers

to strike; 25 for communal activities; 7 for espionage and anti-State activities; 28 for criminal activities; 5 for terrorism; 1 for bad character and 43 for harbouring dacoits. That makes a grand total of altogether 261 persons who were detained during the last twelve months.

Now, I suggest to you that the Act has been most carefully worked and you will not find a single individual who can claim to say with confidence that he has been or was detained for mere expression of political opinion. Mere expression of political opinion is not enough. You must proceed further and you must also either preach violence or indulge in acts of violence.

Therefore, I submit that for a population of 360 millions, such an Act serves a most useful purpose. I have stated in the Statement of Objects and Reasons that the value of the Act is psychological. I repeat that it has a restraining effect. Speaking personally for myself, I am astonished at the moderation with which it has been used. Please remember what happens. When there is an agitation it leads to riots; it leads to shooting; it leads to firing. We have had during the last two or three months several cases. We had a case—which is now under judicial enquiry—at Indore. What happened? There was a student gathering. There were members of different parties—I would not indulge in any acrimonious details here—they surrounded the Secretariat; they wanted to get into the offices. They went and set fire to the High Court building.

**An Hon. Member:** This is a sub judice case.

**Dr. Katju:** When that took place, we had to open fire and ten people were killed. What do you want? Do you want in the name of what you call constitutional freedom...

**An Hon. Member:** Who killed the ten people—police or...

**Mr. Deputy-Speaker:** Saying that 10 people were killed, is it also *sub-judice*? Order, order. The hon. Minister must sit down. I am only trying to intervene to have smoothness in the House for the Hon. Minister to go on. All that I am saying is that when a matter is *sub-judice*, no doubt it ought not to be raised on the floor of the House. But the Hon. Minister is only stating a fact that ten persons died on the spot, whoever may be responsible for that. The point is not that the police fired or somebody else fired. It will be decided by the Enquiry.

**Shri K. K. Basu:** He said that members of different parties were there and they surrounded the Secretariat and so on.

**Mr. Deputy-Speaker:** Surely, it cannot be said that animals went into the High Court. Men went into the High Court and they must belong to some political party. Even goondas have come within this. Non-political goondas may take advantage of this and may bring some dispute with the political parties. That will be a matter for decision by the High Court or any other Court. But the Hon. Minister is entitled to say, this is what happened without stating that this party was responsible or this individual was responsible. Whoever might be the goonda, he does not say this or that.

**Shri Raghavachari** (Pennkonda): The only point is whether the Preventive Detention Act is required to control that situation. The ordinary law is more than enough.

**Mr. Deputy-Speaker:** The hon. Member, if he gets a chance, will argue that way. The hon. Minister may go on.

**Dr. Katju:** The point I was making was that either you take action under the Preventive Detention Act in time or you face these further difficulties, namely, riots, firing and all sorts of troubles, murders and tragic in-

cidents. Such things have taken place in many places during the last few years. I am not blaming either this side or that side, but the point remains that this Act is a most salutary Act and is intended to serve a good purpose, is not intended and does not in any way and has not in the past in any way interfered with or obstructed or put any ban on political activities. This I am entitled to say.

Now, a point has been made in the course of public discussions and I am absolutely in no doubt that it will be made here in the course of the debate. You will have, if I may be allowed to say so, torrents of eloquence on the copy book style, viz., freedom and fundamental rights and so on and so forth, but...

**Shri S. S. More:** May we know, Sir, what is this copy book style?

**Shri Bogawat** (Ahmednagar South): There should not be any interruption. He should be allowed to speak.

**Mr. Deputy-Speaker:** Why are they so touchy? I am only saying...

**Shri S. S. More:** Why should they be so rude?

**Mr. Deputy-Speaker:** There is no question of rudeness. The hon. Minister means slogans, they are all copied.

**Shri S. S. More:** They are the Congress slogans.

**Mr. Deputy-Speaker:** It does not matter. I can be asked to intervene only in cases where an expression is unparliamentary. There is nothing unparliamentary...

**Shri S. S. More:** Nothing.

**Mr. Deputy-Speaker:** Saying "to be parrot-like", "copy book" and so on are quite parliamentary.

**Shri Gidwani** rose—

**Dr. Katju:** If there is a single Member who is entitled to make a complaint that all sorts of things are said against him, it is myself, and I never complain. But these gentlemen, I tell you, are of such tender skin that they are hurt even by a very gentlemanly word like "copy book".

I am saying it is desirable that we should understand the structure of our Constitution. I have heard it said by some people: "Oh, where is the emergency? You can only have a Preventive Detention Act in a state of emergency." Now, I say that our Constitution framers did not think in that way at all. They had put it, so far as the emergency is concerned, in a separate Chapter. Mr. Deputy-Speaker, you will remember there is a provision in the Constitution. The articles from 352 of the Constitution...

**Shri B. S. Murthy (Eluru):** Is it a copy book?

**Mr. Deputy-Speaker:** Order, order. No such reference should be made to the Constitution.

**Dr. Katju:** ...which deal with emergency provisions. Article 352 authorises the President, when he is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, to declare a state of emergency. When he does that, certain consequences follow, and one of the consequences is embodied in article 353; and more particularly in article 358 it is provided that when a proclamation of emergency is in operation, nothing in article 19 shall restrict the power of the State to make any law or to take any action. Then, all our fundamental rights are suspended. To borrow the language of the English law, in a state of emergency the writ of *habeas corpus* is suspended, and then what occurs is that the executive Government of the day is empowered to put any person under any restraint and there is

no recourse to any law Court. And here, in our Constitution also, article 359 provides for that, viz., you may do what you like, you may frame any rule you like, and you may also stop or restrict recourse to law Courts for the time being while the emergency lasts.

So far as the Preventive detention is concerned, it is a part of Part III, and it is considered by the Constitution-makers as an ordinary piece of legislation. Please remember....

**Pandit Thakur Das Bhargava (Gurgaon):** Fundamental right?

**Shri K. K. Basu:** Routine and simple piece of legislation.

**Shri Gidwani:** Then, why this one year, two years, three years business?

**Shri S. S. More:** So, preventive detention is part of our fundamental rights?

**Shri V. G. Desphande:** Yes.

**Pandit Thakur Das Bhargava:** Yes.

**Dr. Katju:** Mr. More intends to be and endeavours to be humorous, but sometimes I do not see the humour at all.

**Shri S. S. More:** I cannot help it.

**Dr. Katju:** Article 22 provides that no person who is arrested shall be detained unless he is produced before a Magistrate. Then, it provides for legal advice or legal assistance. Then comes clause (3). This is a part of the fundamental rights as modified or as circumscribed:

"Nothing in clauses (1) and (2) shall apply—

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention".

—not by any law passed during an emergency, but by any law providing

[Dr. Katju]

for preventive detention. And then you have further provisions as to....

**Shri M. S. Gurupadaswamy** (Mysore): That is a blot on the Constitution.

**Dr. Katju:** ...what is to happen in the case of preventive detention.

**Mr. Deputy-Speaker:** Hon. Members must know that we are subject to a Constitution. Again and again I would like to say that whenever the character of a high personage is impeached or any reference is sought to be made to the Constitution, unless it is a specific motion relating to the amendment of the Constitution or relating to his conduct where his conduct is impeached and some step is sought to be taken against him, such references either to the Constitution or to the high dignitary are out of order, ought not to be made.

**Shri M. S. Gurupadaswamy** rose—

**Mr. Deputy-Speaker:** Order, order. The hon. Members who have come here have taken a solemn oath that they will abide by the Constitution. Making such casual references that there is a blot in the Constitution, until by a proper process the Constitution is changed, will be a breach of the privilege of this House and the manner in which the hon. member has come to this House. After having taken the oath, this kind of slighting of the Constitution is improper, is a breach of privilege of the whole House, and a neglect of duty on the part of any hon. Member who does so.

**Shri M. S. Gurupadaswamy** rose—

**Shri N. C. Chatterjee** (Hooghly): Is it not open to us to say that the hon. Minister is clearly wrong when he says that it is a fundamental right to be preventively detained under this Constitution?

**Mr. Deputy-Speaker:** That is another matter. That is not the matter I am referring to. I am now on the point raised by Mr. Gurupadaswamy

that this clause or article in the Constitution is a blot on the Constitution. I would say that so long as any hon. Member has come to this House owing allegiance to the Constitution, having taken a solemn affirmation or oath, he is not entitled to say that a particular clause or article is a blot on the Constitution except in a case where the Constitution itself is the subject matter under discussion and an attempt is made to remove that particular blot in the article. Then, it is open to him..

**Shri Bogawat:** He must withdraw.

**Mr. Deputy-Speaker:** ... to say so. Not otherwise.

**Shri S. S. More:** May I bring to your notice that many of us are elected on the specific platform of amending the Constitution, because there are certain reactionary principles in it, according to us. You took the oath in 1937 to the Constitution as it then prevailed and you came in to rectify the Constitution. Can we not go in the same direction to some extent?

**Shri Bogawat:** If the hon. Member does not withdraw...

**Mr. Deputy-Speaker:** Hon. Members might have said anything elsewhere, and all that is over-ruled by their having taken the oath of allegiance here.

**Shri S. S. More:** You took the oath in 1937.

**Mr. Deputy-Speaker:** There is no good referring to my actions in 1937.

**Shri S. S. More:** I am referring to the Congress, not to you.

**Mr. Deputy-Speaker:** It is wrong. I can only say that I was not called upon, nor was I Deputy-Speaker, then to give a ruling. Now, the matter has arisen. Hon. Members might have said so many things, that they would change the whole character of the

State. Let them do so. It is open to Hon. Members to come into the House and carry on any kind of agitation subject to restrictions of law. In so far as they have come to this House and have taken a solemn oath that they will abide by and carry out the Constitution, nothing will be allowed here to be said against the articles of the Constitution, derogatory to the Constitution. They can have any kind of interpretation of the Constitution. But to say that the Constitution is a blot is against the Rules of the House, against decorum and order and ought not to be allowed.

**Shri S. S. More:** Under what rule? We ought to know the rule.

**Mr. Deputy-Speaker:** The rule is that I am in charge of the privileges of the House. The privilege of the House is that Members who have come here have taken an oath of allegiance and are bound by the Constitution, and nothing derogatory to the Constitution can be said.

**Shri S. S. More:** May I bring to your notice that if there is any breach of privilege, you will have to refer it to the Privileges Committee? You cannot give an *ex parte* ruling.

**Mr. Deputy-Speaker:** I cannot go on allowing all sorts of abuse about the Constitution and then refer it to the Privileges Committee.

**Shri A. K. Gopalan (Cannanore):** It means that we cannot say anything about the Constitution, we cannot show the defects in the Constitution.

**Mr. Deputy-Speaker:** You cannot abuse the Constitution here. (*Interruptions*). I won't allow that. That is my ruling.

**Shri A. K. Gopalan:** It is not a question of abusing the Constitution.

**Shri K. K. Basu:** Under which rule are we required not to criticise the Constitution? (*Interruptions*).

**Shri H. N. Mukerjee (Calcutta North-East):** This is a very important matter and you must listen to 550 LS

our position very carefully. I wish to say that we are here certainly after having taken a certain oath which is this, that we shall act here in accordance with the provisions of the Constitution, we shall not be disloyal to the Constitution. But, at the same time, we have come here with certain political ideologies—good or bad or indifferent—and it is our job not only in the country, not only outside Parliament, but also inside this House, to convince this House during discussion of different provisions which come before us, that this Constitution is not adequate in order to serve the interests of our people. We have been elected on the express understanding on the part of our people that we want a radical change in this Constitution.

**Dr. Suresh Chandra (Aurangabad):** You cannot abuse the Constitution.

**Shri S. S. More:** This is not abusing the Constitution.

**Shri K. K. Basu:** Learn the English language and know what is meaning of 'abuse'.

**Shri H. N. Mukerjee:** We do not otherwise abuse, unless we are driven to do so by rowdies opposite. It is only...

**Mr. Deputy-Speaker:** I am not going to allow the hon. Member to say that Members on the other side are rowdies (*Interruptions*).

**Acharya Kripalani (Bhagalpur-cum-Purnea):** When you say that a particular thing is a blot on the beauty of a person, that means that the person is beautiful. This is really commending our Constitution. We do not want to be blemished. (*Interruptions*).

**Shri H. N. Mukerjee:** I do not know whether it is to be explained away by the facetiousness of the Acharya. But I want you very seriously to consider this. We are here from time to time to express ourselves certainly

[Shri H. N. Mukerjee]

in regard to the legislation which Government may bring before us. That, necessarily, drives us from time to time to express ourselves in regard to the inadequacies of the Constitution. Inside this House we do not say anything which goes against the Constitution. But we want to convince this country by our work inside the House, and not only by our work outside the House, that this Constitution requires to be changed. That being so, I do not see how you can rule that any reflection on the Constitution is so unparliamentary that it has got to be discountenanced altogether. In regard to the expression 'a blot on the Constitution', you have to give your ruling. You must make up your mind as to whether an expression like that is tantamount to the expression of a desire to be actively disloyal to the Constitution. As long as we are here, we are determined to express our views, within the ambit of the Constitution, but we do not conceal our desire to tell our people as well as our Members in this House that this Constitution is not adequate. We shall take advantage of this Constitution in so far as it goes, but we want it to go very much further than it does. That being so, I wish you would consider your ruling very carefully and not, on the spur of the moment, say something which will unnecessarily damage the interests of the smooth proceedings of this House, particularly in regard to this very serious legislation which the hon. the Home Minister...

Shri N. C. Chatterjee: rose—

Shri N. M. Lingam (Coimbatore): On a point of order. The hon. Member referred to Members on this side as 'rowdies.' I want your ruling on that, as to whether it is parliamentary or not.

Shri S. S. More: Whether they are 'rowdies' or not?

Many Hon. Members: rose—

Mr. Deputy-Speaker: I do not like the expression by the hon. the Deputy Leader of the Communist group, the expression that Members on the other side are 'rowdies'. I do not know what words are used in other Parliaments. So far as I am concerned, I feel that this expression seems to be out of taste and I do not think the hon. the Deputy Leader of the Communist group ever meant this to apply to the others. I would be glad if he says that he did not mean it and would therefore withdraw it.

Shri H. N. Mukerjee: I would certainly say that we are not interested in abusing the other side. I said only that if we abuse, it is because of provocation, but certainly I did not want to reflect on any particular Member.

Some Hon. Members: No.

Shri N. M. Lingam: He said he abused because of the 'rowdies' opposite. We take the strongest exception to it.

Mr. Deputy-Speaker: In a democratic set-up like this, in Parliament, good will must be maintained.

If an hon. Member accuses others as 'rowdies', he can easily out of goodness, withdraw that. I would only say that it will be right that he should withdraw. There is no harm in saving so. (Interruptions). It always redounds to the credit of the hon. Member to say that he withdraws it.

Shri H. N. Mukerjee: I have no objection to withdraw that.

Shri N. C. Chatterjee: May I now draw your attention...

Mr. Deputy-Speaker: I would immediately say one thing. It is, no doubt an important matter. I do not want to lay down any rule just now. I gave what I felt to be the first impression. It is a very serious and very important matter. I do not want to curtail the privilege of any

hon. Member or any group of Members, if consistent with their allegiance to the Constitution, they make any observations relating to the Constitution. I will look into this matter in detail. If hon. Members want to say a few words, I am prepared to hear them, but I will reserve my ruling regarding this matter till I have deeply considered it and looked into the other authorities.

**Shri N. C. Chatterjee:** The oath that each of us took was:

"I..... do solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duty upon which I am about to enter".

I maintain that to criticise any article out of the 395 articles of the Constitution is not at all repugnant to our oath, and we are perfectly within our rights to do so, and we are not doing anything to show lack of allegiance to the Constitution of India, simply because we point out that there is a flaw in it which should be remedied to bring it in conformity with certain concepts which are embodied in this very Constitution, like freedom of speech, freedom of expression and also freedom of movement. I think that has nothing to do with the violation of our oath.

**Shri S. S. More:** According to this very oath, we are under a deep obligation to discharge our responsibilities. So if we are to discharge our responsibilities, we are to discharge our responsibility to the fundamental rights of the people, the fundamental conceptions of democracy, which are the basis and foundation of democracy, and not a paper book.

**Mr. Deputy-Speaker:** The only limited point is....

**Shri S. S. More:** My submission is that when we are seeking by legitimate and peaceful means the amendment of the Constitution, we are discharging

the most sacred part of our obligation to the people, because it is the people who are sovereign.

**Shri M. S. Gurupadaswamy:** I am second to none in my allegiance to the Constitution. (*Interruptions*).

**Mr. Deputy-Speaker:** It is superfluous.

**Shri S. S. More:** The double negative is for emphasis.

**Shri M. S. Gurupadaswamy:** I am as much eager as any others in defending the provisions of the Constitution. By merely saying that a particular provision of the Constitution is wrong, is slur on the Constitution, it does not in any way mean that I am violating the spirit of the Constitution, that I am violating the oath of allegiance to the Constitution. It does not mean anything of the kind. I believe that every Member of the House is entitled to have the privilege of expressing his opinion on the various provisions. In the past, we have seen many expressions of opinion. Members have expressed their opinions on various provisions and criticised the provisions of the Constitution. My expression here does not in any way go against my allegiance to the Constitution. I am certainly entitled to say that a particular provision is a blot on the Constitution.

**Dr. Suresh Chandra:** No, no.

**Shri S. S. More:** Why not?

**Shri M. S. Gurupadaswamy:** If I am deprived of the right of expression, I am deprived of a valuable right; it is my privilege and it is my right to pass my opinion on any part of the Constitution, on any provision of the Constitution, and that right should not be abridged or abrogated.

**Shri V. G. Deshpande:** I wish to make a submission for one minute. My contention is this. We have taken an oath that we will be loyal to the Constitution and that very Constitution to which we are loyal has put

[Shri V. G. Deshpande]

upon Parliament another duty and responsibility, that is, the amendment of the Constitution. And, when it is the duty of the Members of Parliament to amend the Constitution wherever they feel that it is not adequate or is inconsistent with the fundamental rights guaranteed by this very Constitution. I say, it is not only not wrong to criticise a particular article of the Constitution, but it is the duty of every Member, if he feels so, to move an amendment of the Constitution with the object of amending that particular article. We can make a reference to it without losing the dignity and if we, in a constitutional manner, say that this Preventive Detention Act shows that this article of the Constitution is a blot on the great Constitution which we have created. I think, it is not only not doing any wrong but it is the duty of all of us to express an opinion. Without expressing these opinions, we will not be discharging our duty as Members of Parliament and, therefore, I request that no ruling should be given barring us from expressing our opinions on particular provisions of the Constitution.

**Acharya Kripalani:** May I say, Sir, in England they say, 'The King is dead, Long Live the King'. The English people have executed their kings, sent them into exile, have kicked them away and they have taken the oath of loyalty to the King. It is an oath of loyalty to the institution and not to a person.

**Mr. Deputy-Speaker:** Nobody denies the right of the hon. Member or Members to amend the Constitution. but when the amendment of the Constitution is not before the House, day in and day out to say that this Constitution is wretched, is a blot and so on and so forth.....

**Shri Asoka Mehta (Bhandara):** Nobody has said that this Constitution is wretched. We are all with you when you say that nothing should be said or done in this House or outside

which would cause disrespect towards the Constitution. No one present here would permit anyone to do that. All that is being argued out is that there are certain provision in the Constitution which were put in there (*interruption*) because of the peculiar circumstances in which the Constitution was drafted. After all, this country was partitioned; after all, we achieved our freedom after great travail and suffering. The imprint of these circumstances is there on our Constitution and some of us feel that the time has come that the imprints of those particular circumstances should be removed. We also feel that the Constitution should enshrine the noblest ideals that we have cherished during our long freedom movement. If a certain compromise had to be made at a particular time, we feel that the time has come and that we should be given an opportunity to convince you, to convince our fellow-Members and to convince the larger public outside that the time has come when some of the limitations in which the Constitution was framed should be removed. Surely, Sir, that is the only right that we are asking to exercise. We are not here to spread disrespect towards the Constitution. If your ruling is towards disrespect to the Constitution, not one of us is going to object because we all respect the Constitution and the basis of democracy lies in respecting the Constitution. The Constitution is a living document, it is a document that has got to change, it is a document that is expected to respond to the wishes and aspirations of the people. And, because that document was drawn up in peculiar circumstances, that is all the more reason why this first Parliament, elected on the basis of adult franchise, should be given the opportunity to express its opinion from time to time, may be through resolutions, may be through motions, but if need be, through *obiter dicta* and other expressions on other provisions and also to say what we



Members, consider to be relevant as far as the provisions of the Constitution are concerned.

**Shri A. K. Gopalan:** I have only to say there is an article in the Constitution about compensation. Are we not entitled to say that there should be no compensation or compensation should not be given? Are we not entitled also to say why this clause on compensation was there in the Constitution? I do not want to enlarge on it, but I want only to say, we have every right to speak about the Constitution, to amend the Constitution and to point out that, as far as the people, a large majority of the people outside are concerned, there are very serious amendments to be made. If that is not so what else is it? You have raised a very fundamental point and that is a very important point. What we have to say is whether we have any right at all to say that certain provisions or articles in the Constitution are against the interests of the people of this country and so we do not want them here. If we have no right, then there is no question of changing or amending the Constitution at all.

**Shri T. K. Chaudhury (Berhampore):** I have only to point out that the Minister was justifying this Bill with reference to this particular provision of the Constitution. So, we have also a right at least to express our opinion on that aspect. If the hon. Minister had not brought up this point, perhaps, this acrimonious debate in the House would not have arisen.

**Shri Keshavaiengar (Bangalore-North):** I do not think you are not saying that the hon. Minister or anybody in this House has not the right of amending the Constitution. It is only to prevent an abuse of the Constitution. To say that it is a blot on the Constitution is a blot on the Member who said it (*Interruption*).

**Shri Gidwani:** Sir, is it right to say that it is a blot on the Member?

**Shri Tek Chand (Ambala-Simla):** Mr. Deputy-Speaker, we have to draw a distinction between offering our comments on one feature of the Constitution and the whole of the Constitution. We have also to remember that our Constitution is the *Magna Carta* of our freedom, of our democracy and of our liberty. That being so, it is a sacred document, it is a solemn document and any word of a derogatory nature, any word which is derisive or any word which casts an opprobrium on the Constitution as such should be taboo and ought not to be indulged in.

**Mr. Deputy-Speaker:** I will reserve my ruling on this point. I have heard all sections of the House. There is no denying the fact that in a constitutional manner, as provided in the Constitution, and amendment of the Constitution can be tabled and, on that occasion, every one of the features of the particular portions which are sought to be amended can certainly be referred to on the floor of the House. On this, all sections are agreed.

When that is not the regular subject matter, to say generally by way of obiter dicta, as said by Shri Asoka Mehta, whether that has to be allowed or not will require serious consideration. Excepting on the proper occasion where a motion is tabled or the appropriate procedure is taken for amending the Constitution, in all other side ways reference to the Constitution in derogatory terms is allowable or not, is the main point for consideration. This matter arose with respect to the use of the expression, 'That is a blot on the Constitution' by Shri Gurupadaswamy. I will consider the position (i) whether such expressions are derogatory and (ii) whether, incidentally, when the matter is not directly coming up before us, any hon. Member is entitled to say that this is not in conformity with the latest development of political institutions here or elsewhere: and when we are acting under the Constitution to say that the Constitution itself is wrong—whether that is proper or not—I will consider.

[Mr. Deputy-Speaker]

Regarding Shri Chaudhuri's remark that the whole thing was provoked or has arisen on account of the hon. Minister referring to this, I say, the hon. Minister referred to this because he has to justify the Bill and he is entitled to say why we should have this preventive detention. There are so many items like the freedom of speech, the liberty of action that are guaranteed under the Constitution. This is a kind of restriction, according to the Home Minister, intended to guarantee the very rights that have been guaranteed under the Constitution. In general, the majority of the population have been guaranteed certain rights. If there are certain persons who interfere with that right, that interference will have to be done away with and for that a safeguard is provided. Therefore, when he referred to preventive detention as an ordinary one, and not as an emergency provision, that is intended by way of safeguarding the very fundamental rights given under the Constitution, I would say he is not irrelevant. I find that he has done well in referring to this portion which has given him, under the ordinary law, a right in exceptional cases.

**Shri T. K. Chaudhuri:** I never said that he was irrelevant. He was perfectly relevant in referring to that particular article in the Constitution. We are also equally relevant in referring to that article of the Constitution, how far retaining that article itself is a wrong as against the Constitution.

**Acharya Kripalani:** Before you give your ruling, you will please consider the Constitution as one thing and one article of the Constitution as another. One particular article or section is different from the whole. A person may be loyal to the Constitution and yet may want to change any one particular article.

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

Member has not understood the implication of my suggestion completely. Today, a certain action is being taken under a particular article of the Constitution. We are not trying to amend the Constitution. Even if this Preventive Detention Bill is thrown out, that article will still remain in the Constitution. Therefore, any reference to that article, commending it or opposing it, is not going to alter the present position so far as the Constitution stands. So long as appropriate proceedings are not taken to amend the Constitution, whether, incidentally one can go on casting aspersions on a particular portion or portions of the Constitution is the only point for consideration and I will consider it deeply.

4 P.M.

**Shri Asoka Mehta:** There are two points; one is whether there is any derogatory expression and the other whether it can be made about the Constitution or any clause or article in the Constitution. This question has arisen from the fact that a certain statement was made. Whether that statement is derogatory or not: because Acharya Kripalani has raised that and said that a particular thing is a blot on the Constitution or a blot on a person is really praising that thing or person. I do not know whether he was quite serious about it.....

**Acharya Kripalani:** I was serious.

**Shri Asoka Mehta:** .....but we know this is a very important point. If your ruling is 'that the expression like 'blot on the Constitution' is not derogatory, then the whole question of giving a ruling does not arise.

**Mr. Deputy-Speaker:** 'Blot on the Constitution' is not a complimentary statement.

**Shri Asoka Mehta:** If it is your ruling that it is not a derogatory statement, then the larger ruling does not arise from it.

**Shri V. G. Deshpande:** On a point of order. A rule has been made by the Business Advisory Committee that private Members cannot move any amendment to the Constitution. Under such circumstances, the remedy of moving an amendment to the Constitution is not open to us. I want a ruling on this point.

**Mr. Deputy-Speaker:** No ruling is called for now. This does not arise out of the proceedings before us or out of any behaviour in the House.

**Dr. Katju:** I was referring to a very small matter, namely, that when we are talking of fundamental rights, then those fundamental rights should be taken in the contexts which are described and with all the contexts in which they are described. I was not saying that the Constitution may or may not be amended in this matter. I am taking the Constitution as it stands. Every Constitution, as you were pleased to say just now, takes particular care to see that law and order should be maintained, should prevail in the country, and every Constitution provides and must provide that tranquil conditions should prevail. Take our Code of Criminal Procedure which we discussed for so many days. You are aware that there is Part IX beginning with section 106 and the heading of it is "Chapter VIII, Prevention of Offences". So, this doctrine of action is intended not only to punish the offenders committing offences, but also to check and prevent the commission of crimes, and it is an unquestioned doctrine of jurisprudence everywhere in every country of the world. Similarly, they were providing in the Criminal Procedure Code, and here, when the Constitution granted our fundamental rights, the Constitution-framers became aware at once that these fundamental rights may be violated, may be exercised against or may be professed for their exercise which may lead to violent commotion, violent disturbances, violent disorder.

**Mr. Deputy-Speaker:** Let me understand the scope of the Bill. The House passed a Bill last time, extending the Preventive Detention Act, 1950, for a further period. Therefore, we are not going into the justification of passing that legislation from day to day but we are concerned with this, that is, what is the justification today, for continuing that legislation today, and extending it for a particular period. That is the main point. Whether the House has got a right to pass a law or not, so long as an article, a law, remains on the statute-book, the rights flow to us through that law. That law should be exercised, but how it is to be exercised, and if it is exercised, in what manner—whether by continuing it or not—is the only point for discussion before the House. The hon. Minister has to satisfy hon. Members here with whatever material he has. But if he thinks he has already supplied them with statistical information, then he cannot explain further. The matter that has to be clenched is: what are the peculiar circumstances which necessitate the continuance; whether those considerations which were prevalent at the time when this House accepted this Bill last time continue in all their force or whether they have become softened; whether it is necessary to continue the measure or not. Let us focus attention on this particular point instead of going into generalisations. Nobody denies the right.

**Dr. Katju:** You will hear them now—they will deny it.

**Mr. Deputy-Speaker:** I think hereafter they would not deny it. I am only saying that so long as the Constitution stands, there is no good denying it. The right is there. Whether the exercise of that right is proper or not proper is the only point.

**Dr. Katju:** I think it is worthwhile, before I develop my main point, to remind the House that the Constitution gives full power to Parliament to

[Dr. Katju]

pass any law. The law, as it stands is not lightly worded. May I remind the House of the activities which are contemplated by the Preventive Detention Act which Parliament has passed last time? They are activities which are prejudicial to the defence of India, to the relations of India with foreign powers or the security of India or the security of the State or maintenance of public order and the maintenance of supplies and services essential to the community. These are the matters to which the Preventive Detention Act is directed and action can only be taken under this Act to secure and maintain these particular objectives. That is a matter of fundamental importance. Then the Act says, in compliance with the Constitution, that man who is ordered to be detained, has got a fair trial, a fair investigation, before an independent officer. Under the Criminal Procedure Code, we have got preventive sections where the matter goes before a Magistrate. These are matters of vital importance. The judicial machinery which is provided has the right to hear the man. The man has the right to appear before an Advisory Board. As I said at the beginning of my speech, the Advisory Board consists of the highest of lawyers or judges of the highest rank. It is a judicial tribunal. It is not an administrative tribunal. It is perfectly correct that before that judicial tribunal there is no right of representation through lawyers and there is no right of representation that way. You can go there in person, and there is no open trial.

**Shri Gidwani:** He is not coming to the point.

**Dr. Katju:** Every one knows—and my friend Shri N. C. Chatterjee knows it—that it is not the essence of a judicial enquiry either, to receive representations through lawyers or to have an open trial. Every day, in courts of law, when an application is

made to a judge, because public interests may require secrecy or the departmental interests may require secrecy, he may order a trial to be held *in camera*. The judge may order that the court may be cleared. Secondly, you are establishing panchayats, courts of minor description where lawyers should not be permitted to come in. So, the basic point must be remembered. Here, the Board or the body which is sitting in judgment over the executive action is an independent body. Then the question is, is their opinion binding or is it purely an advisory body purely in its executive capacity? The Advisory Board is a judicial body and its opinion is final. I therefore submit that it was a mockery to say that the Preventive Detention Act is an arbitrary Act, that it invests the executive with enormous powers and that there is no remedy given to the person. An hon. Member asked me to come to the point. The point is this: that we are passing through difficult days; it is not only India that is concerned with all sorts of opinions prevailing but the outside world also. There are many things which I cannot say in public here. (*Interruption*).

**Shri S. S. More:** Are we concerned with it?

**Mr. Deputy-Speaker:** The outside world. The article is misplaced. That is all.

**Dr. Katju:** If one hon. Member interrupts, I might answer, but if six Members stand up, I cannot speak with six voices.

Now, I respectfully submit that I do not want to make any assertion or any reference to any political party, but my hon. friend, Shri H. N. Mukerjee, in his eloquent manner and Shri A. K. Gopalan also, said that they had come here under open professions. I agree. I have got

here before me a reproduction of the Resolution which was passed by the Communist Party two or three years ago. Now, in this they have said plainly: "We do not believe in parliamentary action; we believe in force; we believe in dictatorship."

**Shri T. B. Vittal Rao** (Khammam): Give reference of that Resolution. Place it on the Table of the House.

**Mr. Deputy-Speaker:** What is the meaning of interrupting the hon. Minister every minute?

**Shri T. B. Vittal Rao:** Sir, he is referring to a Resolution.

**Mr. Deputy-Speaker:** Order, order. Each hon. Member develops his argument in his own way. First of all, the Minister gives the substance and later on before he sits down without giving the reference I will allow hon. Members to put any questions.

**Several Hon. Members:** Order, order.

**Mr. Deputy-Speaker:** The hon. Minister may get up. Instead of my saying 'order, order' other said it.

**Dr. Katju:** Now, Sir, my hon. friends believe in Marx and Lenin. That is the basic exposition of their faith. In the Communist manifesto Marx declared:

"The proletariat during its contest with the bourgeoisie is compelled by the force of circumstances...."

I won't go to Marx. In 1951, the Communist Party said:

"Marxism and history have once for all decided the question for the party and the people of every country in the world long ago. All action of the masses in defence of their interests to achieve their liberation is sacrosanct."

No constitutional action; that is what they pray for.

**Shri S. S. More:** May I know if even non-violence is a force?

**Mr. Deputy-Speaker:** Why should there be interruption at every stage? All hon. Members, I am sure, without exception know English on the floor here and whoever does not know English he can get up and ask for explanation later on. Other hon. Members need not interpret and interrupt. Otherwise hon. Members will have no other time to speak. If I go on like this the hon. Minister may speak for all the five hours and hon. Members will have to sit like this.

**An Hon. Member:** It is 15 hours.

**Mr. Deputy-Speaker:** 15 or 5; whatever it may be.

**Dr. Katju:** Sir, I will continue my quotation.

"History sanctions all that the people decided to do to clear the lumber-load of decadence and reaction in their path to progress and freedom."

Then there is another passage:

"Even the most hardened liberal would now feel ashamed to maintain, let alone the Communist Party and other democrats and revolutionaries, that this Government and the classes that keep it in power will ever allow us to carry out a fundamental democratic transformation in the country by parliamentary methods alone. Hence, the road that will lead us to freedom and peace, land and bread, as outlined in the Programme of the Party, has to be found elsewhere."

**Shri K. K. Basu:** Don't add "elsewhere".

**Dr. Katju:** Sir, I admire them. They are perfectly right in their denunciation, but when they come here, I tell you, they become democrats and they talk on the terms of peace, liberty, devotion and all

[Dr. Katju]

sorts of things, namely they swear by parliamentary methods. That is what we have to contend here when they come in this House, and the Government. When that comes, goodness knows what they will believe in.

**Mr. Deputy-Speaker:** Is it a resolution passed by the Party?

**Dr. Katju:** Yes, Sir; in 1951 and they have repeated it times out of number. They cannot deny it.

**Shri K. K. Basu:** Lay it on the Table of the House.

**Shri S. S. More:** I can have so many quotations from Panditji supporting this view.

**Dr. Katju:** Someone, a strong pillar of the Party, is supposed to have said that the answer would not be finished by elections and that it would be finished by the strength of the *kisans* and *mazdoors*. (*Interruption*).

**An Hon. Member:** What is wrong?

**Dr. Katju:** They were sometimes in PEPFU also.

Now, I come back to the main point. My point is this: that a legislation on the lines of the Preventive Detention Act is compulsory; it is essential and it is also not honest to say that it will be meant for the suppression of political opinion. Please remember one thing that out of the 280 people or less who were detained in the year 1953 and 1954, 117 or 109 were politicians of this variety or that. 171 were people who were not connected with politics but who were simply indulging in crimes. There were 46 who were harbouring dacoits. There were many people in Bombay who were *goondas* and who were indulging in crimes. Now, the main object of every State Government has been to take action with a view to prevent commission of crime and I repeat once again, Sir, that it is much

better that action is taken at the early stage before any riots start; before riots break out; before there is disturbance of peace and before people are killed, no matter whoever is to be blamed—whether the police may be blamed or the rioters may be blamed—for the terrible loss of lives. Then we have arson. We had such action taken in Hyderabad. We had such action taken in some districts of U.P. And, afterwards there is a sort of *post mortem* examination, demands for official enquiry, demand for public enquiry and so on. If action is taken now, before-hand, two, three or four people are locked up, statement of objects given to them as to why they have been locked up and enquiry conducted before an Advisory Board, the matter would be settled. No argument can be founded upon the fact: "Oh: look at this statement. There are many States where Government has not found it necessary to detain anybody. In several other States action has been taken but the number is small." The number is small because the Act may have exercised a sort of purifying or restraining effect; or, secondly the Act itself was not properly utilised. I do submit that this is a matter in which no risks can be taken. Parliament would be justified in saying that these are critical times. There is a sort of convulsion of ideas. We have got here different types or people with different minds working in different ways and with different morals. As I said, in abroad, we read every day all sorts of political motions and political doctrines. We ought to really congratulate ourselves that, in India today, conditions reign or prevail where there is security and safety and that is partially due to the existence of the Preventive Detention Act. It may be said: "You can take action under the Penal Code". But sometimes, it will be wholly insufficient. It may be a sort of trying to catch the bird when the bird has flown. It is much better

that you take action in time and stop the commission of all crimes—dangerous crimes, crimes dangerous to society, to the security of the State and crimes leading to the prevention of relations. I do not wish to refer to any particular case because it would not be fair here; otherwise it is worth mentioning. All State Governments, everyone who are charged with the maintenance of law and order, who have to shoulder heavy responsibility have said that this Act should continue.

Mr. Deputy-Speaker, I should like to make this point that Preventive Detention Act was passed in 1950, then the second Act was passed in 1951 and the third in 1952. In 1952—two years ago—Parliament undertook a most exhaustive examination and have made it almost perfect to see that the detenu gets a fair deal; that he is protected in every way; that he gets an opportunity of putting his case and that the period of detention is not too long. Formerly in the previous Act there was no maximum period and now it is a maximum period of one year. Any attempt to brush it aside, I submit, will be detrimental to the State and it will jeopardise maintenance of law and order in this country. It is from this point of view that I venture to place it before the House.

In the opening comments that were made it was said:

"In a democratic set-up it was absolutely necessary that those who did not see eye to eye with the policies of the Government, should have every right to organise themselves and show their protest in the manner which they think appropriate."

I entirely agree with that. "Which they think appropriate" means that it must be lawful and I challenge Members opposite to quote a single instance where this law has been abused and members of political parties detained. I can wait for that. (Interruption).

Mr. Deputy-Speaker: Motion moved:

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

There are amendments tabled to this motion.

Shri M. S. Gurupadaswamy: I move the amendment standing in my name.

Mr. Deputy-Speaker: Just wait. I will allow opportunities for hon. Members to speak after I put all these amendments before the House. While I have generally no objection to motions for circulation of the Bill or for reference to Select Committee.....

Dr. Krishnaswami (Kancheepuram): I rise on a point of order, Sir.

Mr. Deputy-Speaker: At this stage or immediately after I put these amendments before the House?

Dr. Krishnaswami: I have no objection to wait till you put them before the House.

Shri S. S. More: Possibly it may be regarding the validity of the Bill itself.

Dr. Krishnaswami: I rise on a point of order. It is, I believe, sufficiently important to warrant an interruption of business. Mr. Speaker, to whom I gave prior intimation of my intention, has kindly permitted me to do so immediately after the consideration motion has been moved by my hon. friend, the Home Minister. I am thankful to Mr. Speaker for having given me the opportunity to raise this issue at the outset. In the event of your ruling being in my favour, either partially or wholly, there will be time for hon. Members to give notice of amendments to the parent Act, and the Government also would be in a position to have a timely notice of procedure.

Mr. Deputy-Speaker: The hon. Member must know that a point of order is not to be so lengthy as he has started. Let him state the point,

[Mr. Deputy-Speaker]

and if I want further elaboration, then I will ask him to elaborate. What is the point now?

**Shri Raghavachari:** The point of order is about the validity of moving amendments to the parent Act.

**Mr. Deputy-Speaker:** No amendment has been moved to the parent Act. There are certain amendments and when I come to the amendments, I will hear them, and then accept or reject them.

**Shri Raghavachari:** But this is an amendment to the parent Act.

**Mr. Deputy-Speaker:** I must understand what the point is. What is the amendment to the parent Act? Let him have his full say.

**Dr. Krishnaswami:** After your ruling, we will be in a position to move the amendments.

**Mr. Deputy-Speaker:** What I would like to know is this. I want the hon. Member to tell me what the point of order is and then elaborate. Forget all the arguments, what exactly is the point?

**Dr. Krishnaswami:** Can amendments be moved to the parent Act in this case?

**Mr. Deputy-Speaker:** Hypothetically I am not called upon to give a ruling. What is the trouble here to which he refers?

**Dr. Krishnaswami** rose—

**Shri H. N. Mukerjee:** The point is this. The Speaker has given a ruling in 1951, according to which, if there is a continuatory legislation then the parent Act cannot be re-opened except in some very exceptional cases, and possibly this is one such case...

**Mr. Deputy-Speaker:** The hon. Member is a Doctor of Literature and let him make his point clear. I am not here for a general discussion on jurisprudence and parliamentary practice. I have been enough in the

jail and I know the difficulties that arise. But what is the point of order? This ought not to be extended. If it is to be extended, the hon. Member, who is a Doctor of Literature, can help himself and I do not want any other hon. Member to intervene. The hon. Member may be able to tell me the point of order.

**Dr. Krishnaswami:** Can a Bill, which is merely an extension Bill, permit of amendments being moved to the parent Act?

**Mr. Deputy-Speaker:** To the clauses in the parent Act?

**Dr. Krishnaswami:** I am taking this particular Bill for consideration and, therefore, I should be permitted to make this point at some length as it is a matter of some complication. Since this is a matter which falls outside the ruling which has been given by the Speaker in 1951, I have to elaborate it at some length and I would request your patience, Mr. Deputy-Speaker, to allow me to elaborate it in my own way.

**Mr. Deputy-Speaker:** I am here to judge the relevancy or irrelevancy and hear the point of order and the hon. Member ought not to dictate to me.

**Shri S. S. More:** We are only suggesting.

**Mr. Deputy-Speaker:** The point raised is purely a hypothetical point. There are, I find, amendments and any point of order can be raised only in respect of the amendments that have been tabled. No hon. Member can seek the advice of the Chair and after the Chair gives its ruling one way or the other, give his amendments.

Hon. Members have tabled amendments that the Bill must be referred to a Select Committee or circulated for eliciting opinion. So far as those amendments are concerned, I have the least objection to their being moved, except regarding the reference to the Select Committee. Even



there, if it is said that for 1956, it may be 1957 or 1955, there is some point before the Select Committee and let there be arguments there. Technically, I do not find anything wrong in these motions except Shri Gurupadaswamy's motion, where no date is fixed. I would have invited him to give a date, but there are other motions of a like nature which have given the dates. Therefore, I am not allowing Shri Gurupadaswamy to fill up the gap.

So far as clause 2 is concerned, except for the amendment of '1954' into '1957', there is no change in the clause. Formerly in 1952 when the discussion came in, the point was raised and the Speaker ruled that this should be referred to the Select Committee with the directions that clauses not touched by the Bill could also be touched. In that Bill, not only was it an extension, but some clauses of the original Act were touched. Here what is the position?

**Shri Raghavachari:** In clause 2, it says:

"for sub-section (2), the following sub-section shall be substituted...."

So, this is an amendment. There is a whole sub-clause which they seek to substitute by another.

**Mr. Deputy-Speaker:** It is merely an extending Act. So far as an extending Act is concerned, there are two things. If there had been amendments to the parent Act already tabled here, then I would be called upon to consider whether I would allow those amendments or not. Now, the point is purely academic.

**Shri Raghavachari:** My only point is that this Act is not merely an Act for extension. It is also an Act for amendment of a clause of the parent Act. The present Act extends to the whole of India and also to Jammu and Kashmir except in some particulars. They now propose to omit the whole clause and make it applicable only to India excluding Jammu and Kashmir. There-

fore, there is a substantial amendment in this clause.

**Mr. Deputy-Speaker:** Even if there are already amendments tabled, I can consider if those amendments are in order or not. No amendments have been tabled to that effect, and if the hon. Member wants the ruling of the Chair so that he may act upon that ruling, it is a hypothetical point and I am not going to allow it.

**Dr. Krishnaswami:** It is not as hypothetical as it seems, because the reasons for my suggestion for this procedure are these. Should the ruling happen to be given in my favour, there will be time for giving notice of amendments to the various provisions of the parent Act for the consideration of the House, immediately after the motion for consideration is taken up. Secondly, if the ruling is favourable to me, the Government also will have timely notice of the procedure to be followed. Therefore, when this Bill comes up for consideration, I do think this has got some relevance and that was why I suggested to the Speaker and made this point of view before you. I am afraid I have not made myself clear. It is not hypothetical; it is just practical and it affects the liberties of all Members of the House and I thought I would co-operate by just suggesting this.

**Mr. Deputy-Speaker:** My ruling is this. I am not going to give a ruling on what ought to be done and what hon. Members can do hereafter. As the hon. Member is a good lawyer, he knows that no Court commits itself to any particular ruling apart from the facts that arise. Now, there is no amendment here which seeks to amend any clause of the parent Act, in which case I would be called upon to give a particular ruling. Even then, when the amendment comes in I will take note of it; if there is any amendment to a particular clause, then the matter may be raised and I will come to it.

Now I will only place those general amendments before the House. We

[Mr. Deputy-Speaker]

are not going clause by clause, in which case we shall consider what has to be done. Hon. Members may now move their amendments.

**Shri A. K. Gopalan:** I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1955."

**Shri V. G. Deshpande:** I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st February, 1955."

**Shri T. K. Chanduri:** I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 28th February, 1955."

**Mr. Deputy-Speaker:** There is another amendment tabled by Shri V. G. Deshpande. Is he moving that also?

**Shri V. G. Deshpande:** Yes, Sir. There is one clause, but as was rightly pointed out by my hon. friend Dr. Krishnaswami, I want the Select Committee to examine all the provisions of the principal Act.

**Mr. Deputy-Speaker:** Let him satisfy the House. I will allow it.

**Shri V. G. Deshpande:** I beg to move:

"That the Bill be referred to a Select Committee consisting of Shri N. C. Chatterjee, Shri A. K. Gopalan, Shrimati Sucheta Kripalani, Sardar Hukam Singh, Shri Shankar Shantaram More, Shri Tek Chand, Pandit Thakur Das Bhargava, Shri Bhagwat Jha Azad, Dr. Ram Subhag Singh, Shri K. G. Deshmukh, Her Highness Rajmata Kamlendu Mati Shah, Shri P. N. Rajabhoj, Dr. A. Krishnaswami, Shri Nand Lal Sharma and the Mover, with instructions to report before the 22nd February, 1955."

**Shri Thimmaiah (Kolar—Reserved Sch. Castes):** I have given an amendment.

**Mr. Deputy-Speaker:** That will come when we come to the clauses. I will place the amendments before the House.

**Amendments moved:**

(i) "That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1955."

(ii) "That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st February, 1955."

(iii) "That the Bill be circulated for the purpose of eliciting opinion thereon by the 28th February, 1955."

(iv) "That the Bill be referred to a Select Committee consisting of Shri N. C. Chatterjee, Shri A. K. Gopalan, Shrimati Sucheta Kripalani, Sardar Hukam Singh, Shri Shankar Shantaram More, Shri Tek Chand, Pandit Thakur Das Bhargava, Shri Bhagwat Jha Azad, Dr. Ram Subhag Singh, Shri K. G. Deshmukh, Her Highness Rajmata Kamlendu Mati Shah, Shri P. N. Rajabhoj, Dr. A. Krishnaswami, Shri Nand Lal Sharma and the Mover, with instructions to report before the 22nd February, 1955."

Now discussion on the Bill as also on these four amendments (Nos. 2, 5, 8, and 6) will proceed.

Shri M. S. Gurupadaswamy—I have disallowed his amendment. Hon. Members will be as brief as possible because a number of hon. Members seem to be interested in speaking on this.

**Shri Raghavachari:** There are fifteen hours allotted for this Bill. It is better some time is fixed for the general discussion and the other stages; it need not be hurried at this stage.

**Mr. Deputy-Speaker:** How long for general discussion?

**Some Hon. Members:** Twelve hours.

**Mr. Deputy-Speaker:** Then for clause by clause?

**Shri S. S. More:** There is only one reading.

**Shri Asoka Mehta:** There are two clauses. One is about Jammu and Kashmir and the other is about the period. Two hours may be allotted for that and one hour for the third reading.

**Shri S. S. More:** Yet the point is not clear whether Members are competent to propose amendments to the substantial provisions of the parent Act. You have said that you cannot give a ruling on a hypothetical proposition. Suppose some amendments come, you will have to change the allotment of time. It must be elastic to provide for that emergency.

**An Hon. Member:** Tomorrow we can decide it.

**Mr. Deputy-Speaker:** We will decide it after the consideration stage is over. When the Bill is taken into consideration, when we take the Bill clause by clause, then alone is the opportunity for deciding it.

Hon. Members may go into the previous rulings and make up their own mind so far as that matter is concerned. We are bound to follow certain precedents, unless the precedents were wrong.

As at present advised, we will fix twelve hours for the general discussion. Then two hours for the clause by clause stage—one hour for Jammu and Kashmir and the other hour for extension of the period, or for both together. And one hour will be devoted for the third reading.

Hon. Members who are Leaders of Groups, who speak in a representative capacity, will have half an hour each. Other hon. Members will have fifteen minutes each, except that there will be discretion to the Chair to

extend fifteen to twenty minutes in appropriate cases.

Now, Shri M. S. Gurupadaswamy. Is he the spokesman of his Group, I would like to know.

**Shri M. S. Gurupadaswamy:** I am one of those who will speak.

**Mr. Deputy-Speaker:** Then he will have fifteen minutes, with the right of the Chair to extend it by five minutes in its discretion.

**Shri M. S. Gurupadaswamy:** When this measure was first debated in Parliament some years back, the then hon. the Home Minister said that this Act would not continue longer than one year. When this Parliament met in session after the General Election, there was an amendment of this Act, and the Home Minister again said that it would be extended only by two years. The argument advanced on those two occasions was the same. It was that the conditions prevailing in the country at those times warranted a very special Act of this nature. The argument was that the law and order situation in the country was deteriorating, and that the anti-social elements were very active and so it was imperative, for this piece of legislation to continue for some time to come. Now the hon. the Home Minister comes forward and says again that this Act should be extended for three years that is, till after the next General Election.

What is the meaning of this? What is the purpose of this extension? If the hon. Minister wants to establish and maintain law and order in the country, if he wants to detain people who are anti-social, anti-national, he could have come forward with a demand for a limited extension of this Act for six months or eight months or for one year. But even here the argument is not sound. But if the over-riding purpose is to maintain law and order and to curb the anti-social activities of a few miscreants or *goondas* then he could have taken the help of ordinary law of the land. So I ask: what is the purpose working behind

[Shri M. S. Gurupadaswamy]

his mind? It is obvious. He is already looking at the coming general election and he wants this Act to be on the statute-book at the time of the General Election for fulfilling the ends of his own party. He says there is no political or partisan or any biased or prejudiced purpose in this move. He says, it is not meant for curbing public opinion, it is not meant against political parties. But we cannot believe that is true. We cannot take these words as they are, because if his purpose is only to establish law and order, if his purpose is to check the illegitimate or anti-national activities of a few hooligans or *goondas* or mischief-makers, and if that was not possible by resort to ordinary law, then he could have asked for the extension of this Act only for a period of one year or so. But he wants its extension for three years. The purpose to me seems to be to apply this Act more rigorously to the political activities of various parties or persons who are working in the various parties against the Congress. That is very clear and obvious. The Minister cannot get out of that. He said, three years are enough. If he wants to keep this permanently on the statute-book, let him say so. Let it be a permanent measure; let it be part and parcel of our permanent statutes. Let him keep it for 100 years if he wants. That is his intention I know. But, let us understand the true working of his mind. Let us understand the truth behind the suggestion for extension.

Previously, when we had not won our freedom, we know the feelings in the country against the Rowlatt Act. The entire country was agitated when the Rowlatt Act was brought forward by the Britishers. The Rowlatt Act is similar to the Preventive Detention Act. There is no difference between the two Acts. But, we know how the entire country was agitated at that time. The entire nation became psychologically upset over that Act. What were the consequences of the Rowlatt Act? Many people died. Many people had to witness the

death of their brethren. So many people became martyrs in Jallianwala-Bagh. The same Act has been enacted in our free India. This I call an Act of depravity. This is not an Act of grace. It is most pernicious because it takes away the power of the Courts and condemns a man before he is properly tried. In a normal atmosphere, in a society where the ordinary laws prevail, it is expected that before a man is condemned, he should be properly heard before a Court of law under the ordinary law. That is a fundamental right. That is a right that should be guaranteed in any law. Sir, I venture to ask where is the necessity for such an Act as this? What are the conditions prevailing today? The conditions are normal. The Minister can quote figures. He may say the figures of detention have increased. Increase of figures is a justification for the continuation of the measure. Sir, figures can be increased. There may be more detenus or there may be less detenus. Whether there are more detenus or less detenus depends on the caprices of the Magistrates, caprices of the Government. If they want to take more people to jails, they can take them at any moment. If there are more detenus today, it is because they have arrested more people and put them in jails. If there were less it is because they have not taken action against more people. That should not be a justification or an argument. The present times are most normal. The atmosphere in the country is quiet and calm. There is no disturbance. There is no violence; there are no *goonda* activities in violation of the ordinary laws. The whole country is now in a state of peace. So far as law and order situation is concerned. Then where is the necessity for continuing this Act for three more years.

The Home Minister said just a few minutes ago that this Act has got a psychological effect and that it is a sort of a psychological Act. I am sorry, I do not know what psychological effect it has. The Home Minister

provides a psychopathic case which we cannot understand. For the purpose of creating a sort of psychological atmosphere in the country, should we pass Acts of this nature? Is that the attitude? Are we to believe this? For the purpose of creating a proper atmosphere, for the purpose of deterring the people from committing offences against society: should that be made a ground for continuing this abnoxious Act. This is a most absurd and irrational argument. We cannot accept that argument at all. He said in the beginning that this Act is not meant for curbing the activities of political parties. I thought I could believe him. But, at the end of his speech he gave the impression that it is meant for curbing the activities of political parties meaning Communist Party. There is a basic contradiction in his statement. I cannot understand this. He quoted communist literature and he was saying that the Communists were creating a lot of confusion in the country and so there is necessity for this Act. I am not very much enamoured of communism; I am not a subscriber to Communist Philosophy. But, I want to know whether this Act is meant to smother political opposition. I feel that the way that things are being done, the way that the Act is being extended from time to time drives one to inevitable conclusion that it is meant to buttress the Congress.

There is a saying that politics is a conspiracy of power. This is a saying of Mr. Dennis, a famous political thinker. I think that Dr. Katju must have taken his lessons under Mr. Dennis. Politics is a conspiracy of power. This Preventive Detention Act is a conspiracy of power for power. That is what I feel about it. We know that democracy is the rule of the majority. We agree that it should be the rule of the majority. It cannot be a rule of the minority. It is only the Congress Party which has to rule because it has got the majority.

**Shri S. S. More:** That is not a correct statement. They have not got the majority.

550 LS

**Shri M. S. Gurupadaswamy:** I am coming to that. But should all the Acts of the majority be obeyed. Should all the legislations or measures brought forward by the majority be obeyed? I think all the Acts of the majority should be obeyed so long as those Acts are proper or perfectly legal. All the Acts of the majority should be obeyed if the Acts of that majority respond to the spirit of the age and fulfil the spirit of the age. The question is, are they in response to the spirit of the age? The Acts must have the sanction of time, and should reflect the spirit of time. What is the present spirit of the age? The spirit of the age is freedom. You want freedom; everybody wants freedom. Freedom should be expressed explicitly in all the Acts. If there is any attempt on the part of the majority to go against the dominant spirit of the age, then there is no moral sanction or sanction of the time behind the majority rule.

I remind the House here of a famous statement of Tocqueville. He is a nineteenth century political thinker, but his statement is even today worth-while remembering. He says that "the moral authority of the majority is partly based upon the notion that there is more intelligence and more wisdom in a greater number". That is the assumption. Why do people want majority rule? They want majority rule because in a majority there will be more people and more people are better than a few. That is why they always say that democracy should be rule of the majority and power should be with the majority. But, Sir, if the majority acts in an illegal fashion, if the majority becomes a steam roller as we find it here to-day, that rule cannot be called a democratic rule. The Congress has become a majority no doubt, but it has become a steam roller. It is acting like a bull dozer, crushing everything, all the virtues of democracy.

**An Hon. Member:** Should there be a minority rule?

**Shri M. S. Gurupadaswamy:** What I say is there should be a corrective

[Shri M. S. Gurupadaswamy]

for the majority mis-rule. By a simple majority you cannot carry on.

There is another ground why majority rule is supported. The majority interests are to be preferred to minority interests. That is perfectly true when the majority interests represent the true interests of the nation. If the majority interests do not represent vested interests or interests of a few people who rule this country, then that majority interest should be taken as an interest to be supported.

**Shri Raghbir Sahai** (Etah Dist.—North East cum Budaun Dist.—East): How is it relevant?

**Shri M. S. Gurupadaswamy**: You are enjoying majority in this House; but it is not a real majority rule. It is a minority rule as it reflects the selfish interests of a small coterie of Ministers.

**Mr. Deputy-Speaker**: I pointed out to the Hon. Minister, the most relevant issue here would be that after 1952 there has been an increase in crimes and ordinary law could not deal with them. He placed a book here containing some statements. Hon. Members must apply their minds and see whether there is need for this Act.

**Shri M. S. Gurupadaswamy**: Sir, I pointed out earlier that the ordinary law as it is to-day should be able to control crimes. If there is any lacuna in the ordinary laws of the country, it is fit and proper that you should fill up the lacuna. But there is no necessity for a special measure.

**Mr. Deputy-Speaker**: The hon. Member cannot continue for more than one minute.

**Shri M. S. Gurupadaswamy**: I have taken about 12 minutes.

**Mr. Deputy-Speaker**: The Hon. Member started at 4-35 and the time is 4-55 now.

**Shri M. S. Gurupadaswamy**: I do not take much of the time. I reiterate once again that the conditions that are prevailing in the country do not warrant the continuation of the

Act any longer. These figures which have been supplied by the Home Minister do not also justify this, because these figures can be changed according to the caprices and fancies of the Magistrates. I may also point out that this Act has been misused in many cases. I come from the Carnatic area and I think the Deputy Home Minister may know what happened sometime back. A number of people—70 to 75 people—were detained on flimsy grounds. The grounds were cooked up. People who were working honestly in political parties, decent and honourable men, were charged as *goondas*. They were named as anti-social elements. Honourable men are made dishonourable by this Act. Sir, therefore it is a black Act. This lawless Act should not be continued for long. By this Act the people who are working in various political parties are condemned. That is why I say it is worse than the Rowlatt Act. It is a disgrace for all of us if you pass this measure. It is a disgrace to continue this. It is a disgrace to Government which brings it again and again; and it is also a disgrace to the country. If foreigners look at this, what will they think of us? They will think that these people cannot be ruled by the ordinary law—they should be ruled by a special law—the Preventive Detention Act. Sir, I cannot understand this mentality of the Government.

By this Act democracy will be slaughtered. You are hanging democracy and making a corpse out of it. Sir, I would ask the House not to do this. If you do this, you will not only murder democracy but you will be enacting 'slavocracy'.

5 P.M.

**Mr. Deputy-Speaker**: Shri A. K. Gopalan.

**Shri A. K. Gopalan**: Mr. Deputy-Speaker, Sir, detention without trial had been there even in 1947.

**Mr. Deputy-Speaker**: The House will now stand adjourned. The hon. Member may continue tomorrow.

*The Lok Sabha then adjourned till Flenen of the Clock on Friday, the 16th December, 1954.*