

Volume X

No. 1 - 13



Par. S.1.X.1.51

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# PARLIAMENTARY DEBATES

PARLIAMENT OF INDIA

OFFICIAL REPORT

Part I—Questions and Answers

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Oral Answers to Questions [Cols. 1595—1626].

Written Answers to Questions [Cols. 1626—1636].



Price Four Annas (Inland)

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**THE**  
**PARLIAMENTARY DEBATES**  
**(Part I—Questions and Answers)**  
**OFFICIAL REPORT**

1989

1990

**PARLIAMENT OF INDIA**

Friday, 5th October, 1951

The House met at Nine of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]

**ORAL ANSWERS TO QUESTIONS**

**HARIJAN FARMERS IN PUNJAB AND  
PEPSU**

\*1565. **Shri Balmiki:** (a) Will the Minister of Rehabilitation be pleased to state whether it is a fact that several displaced Harijan farmers who have been rehabilitated in the rural areas of East Punjab and Pepsu are facing great difficulties as tillers at-will?

(b) What steps do Government propose to take to remove such difficulties?

**The Minister of State for Rehabilitation (Shri A. P. Jain):** (a) and (b). No such reports have been received by Government. Only one solitary representation has so far been received by the Punjab Government from Harijans, both displaced and local, from District Ambala regarding their ejection by the landlords under Section 41 of the Punjab Tenancy Act. This is being looked into.

**श्री कन्हैया लाल बास्नीकी:** उन हरिजन किसानों की ठीक ठीक क्या संख्या है जो पंजाब और पेषु में बसाये गये हैं और उनको कितनी ज़मीन दी गई है ?

[**Shri Balmiki:** What is the exact number of those Harijan peasants who have been rehabilitated in the Punjab and Pepsu, and how much land have they been given?]

**श्री ए० पी० जैन:** हय कितने ही तरीकों से बसाये गये हैं। कुछ तो ऐसे हैं कि जो कि लैण्डलांड्स की ज़मीन पर बसे हुए हैं और

अगने निजी समझौते के अनुसार। कुछ ऐसे हैं जिनको सरकार ने बसाया है उस ज़मीन के ऊपर जिसका कि ऐलाटी ने कब्जा नहीं लिया, और कुछ ऐसे हैं कि जिनको हक़ नहीं है पंजाब से बाहर जाने का, लेकिन अब वह हिन्दुस्तान में हैं।

[**Shri A. P. Jain:** These have been rehabilitated in several ways. Some of these have settled on landlord's land, according to their own compromise; some there are who have been rehabilitated by the Government on the land which was not occupied by the allottee, and some there are who are not entitled to go out of the Punjab, but are in India now.]

**श्री कन्हैया लाल बास्नीकी:** क्या उनकी हालत फोर्ड लेबर करने वाले मज़दूरों की सी है ?

[**Shri Balmiki:** Are they of the same condition as that of the workers doing forced labour?]

**श्री ए० पी० जैन:** मेरा यकीनी अंदाज़ा यह है कि जैसी हालत उनकी पश्चिमी पंजाब में थी, वहां से यहां पर उनकी हालत बहुत अच्छी है और खास तौर से जो इनमें से पंजाब से बाहर बसे हैं उनको तो दस दस एकड़ ज़मीन मिली है।

[**Shri A. P. Jain:** I am sure that they are better than what they were in the West Punjab, and those of them especially, who are settled in outside Punjab area, have got ten acres of land each.]

**श्री कन्हैया लाल बास्नीकी:** पश्चिमी पंजाब में तो उनमें से बहुतों के पास ज़मीनें थीं भी, लेकिन यहां पर जब वह आये हैं तो उनकी

हालत टेनेन्ट्स ऐक्ट विल होने की वजह से उनके समाने बड़ी मुसीबतें हैं। जब चाहा उनको निकाल दिया, जब चाहा उनको तंग किया उनके जौनवरों को पोखरों पर पानी नहीं पीने दिया जाता। और कितने ही तरह की ऐसी मुसीबतें हैं। इस सम्बन्ध में हरिजनों की ओर से जो शिकायतें आई हैं उनका क्या किया जा रहा है। इस सम्बन्ध में क्या कदम उठाया जा रहा है हरिजन विभाग की ओर से और आपकी ओर से ?

[Shri Balmiki: Most of them had land in the West Punjab, but when they came here, their condition being tenants at will, they had a number of misfortunes before them. Whenever they (Govt.) wished, they turned them out, and whenever they (Govt.) desired, they teased them. Their cattle are not allowed to take water from the ponds. And there are such several difficulties. How are the complaints from the Harijans in this connection being dealt with; What steps are being taken in this connection by the Harijan Department and you?]

श्री ए० पी० जैन : आनरेबिल मेम्बर ने कहा कि पश्चिमी पंजाब में उनके पास जमीनें थीं। तो पश्चिमी पंजाब में जो जमीनों के मालिक थे उनको तो उसके बदले में दूसरी जमीन यहां पर दी गई है। अगर कोई हरिजन हैं जिनके पास पश्चिमी पंजाब में जमीन थी, तो उनको भी यहां पर जमीन मिल गई है। जहां तक दूसरी सुविधाओं का सवाल है, यानी यह कि जमीनों के ऊपर उनको क्या हक है, तो पंजाब के अन्दर अभी एक संशोधन विधान पास हुआ है, जिससे कि पंजाब टेनेन्सी ऐक्ट में उन लोगों को जो कि काश्तकार हैं, जमीन के ऊपर अधिकार दिया गया है। बहरहाल मेरे इल्म में ऐसी कोई बात नहीं है कि उनके मवेशियों को कहीं कहीं पानी इत्यादि नहीं पीने दिया जाता। अगर ऐसी कोई शिकायत आयेगी तो उसके ऊपर गौर किया जायगा।

[Shri A. P. Jain: The hon. Member said that they had land in the West Punjab. Well, whoever was the owner

of land in the West Punjab has been given land here, instead. If Harijans amongst them had land in the West Punjab, they, too, got land here. So far as the question of other facilities goes, i.e., what right they have on land, recently an Amendment Act has been passed in the Punjab, according to which the peasants under Punjab Tenancy Act have been given right on land. Anyway, I have no knowledge that their cattle are not allowed to take water at some places. If such a complaint comes up, it will be considered.]

श्री कन्हैया लाल बाल्मीकी : बंजर और नौतोड़ जमीन उन्होंने तैयार की है क्या उन पर भी उनका हक है ?

[Shri Balmiki: Have they right on the land—barren and brought-under-plough—cultivated by them?]

श्री ए० पी० जैन : मैं नहीं कह सकता कि माननीय मेम्बर का कौन सी नौतोड़ जमीन से मतलब है, जहां तक हमने उनको जमीन दी है वह तो वह है जो कि पहले खेती में जमीन थी और जितना नौतोड़ के ऊपर हक है वह भी पंजाब टेनेन्सी ऐक्ट की जो मुहतालिक़ धारारें हैं उा के अनुसार ही है। अगर वह पंजाब टेनेन्सी ऐक्ट को देखलेंगे तो उनको मालूम हो जायेगा कि नौतोड़ जमीन पर क्या हक होता है।

[Shri A. P. Jain: I cannot say which brought-under-plough land the hon. Member means. So far as the land, given to them by us goes, it is the same one which was under cultivation then; and their right on brought-under-plough is in accordance with the different sections of the Punjab Tenancy Act. If the hon. Member looks into the Punjab Tenancy Act, he will come to know what right there is on the brought-under-plough land.]

Shri Kesava Rao: May I know whether it is a fact that though the Government have allotted lands to these displaced Harijans, the caste Hindu kisans have driven them out of their lands?

Shri A. P. Jain: I have no such information.

Dr. Ram Subhag Singh: The hon. Minister mentioned that persons who owned lands in West Pakistan have been compensated here. May I know

whether the non-Harijan and Harijan farmers who did not own any land in West Pakistan\* have been given equal facilities here in regard to allotment of lands?

**Shri A. P. Jain:** The hon. Member is putting in my mouth something which I did not say. I said those persons who owned lands in West Punjab, and not West Pakistan, have been given land in lieu of land left behind. Whether a person is a Harijan or a caste Hindu or otherwise, if any one has left any land in West Punjab, we have allotted to him lands on a certain scale in East Punjab and PEPSU.

#### POWER-LOOM CLOTH

\*1566. **Shrimati Jayashri:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that Government intend to impose price control on power-loom cloth; and

(b) whether Government intend rationalisation of production by reduction in the number of varieties of power-loom cloth? .

**The Minister of Commerce and Industry (Shri Mahtab):** (a) Yes.

(b) Yes.

#### CHIEF TECHNICAL ADVISER, SINDRI FERTILISER FACTORY

\*1567. **Prof. K. T. Shah:** Will the Minister of works, Production and Supply be pleased to state:

(a) whether any special qualifications, training or experience are required and if so, what they are in regard to the appointment of the Chief Technical Adviser, for the Sindri Fertiliser Factory.

(b) whether the Chief Technical Adviser is appointed:

(i) as a permanent official in any Ministry, or

(ii) as a contract officer;

(c) if the appointment is on a contract basis what are the terms of the contract;

(d) whether the Chief Technical Adviser is eligible for re-appointment in his old post or any other post in the public service after the termination of his present post; and

(e) the qualifications, experience emoluments, and other terms and conditions of service of the present Chief Technical Adviser in the Sindri Fertiliser Factory?

**The Minister of Works, Production and Supply (Shri Gadgil):** (a) Yes, extensive experience in the planning, execution, organisation and administration of big industrial projects.

(b) The post of Chief Technical Adviser in the Fertilizer Project, Sindri, under this Ministry is a temporary one. The present incumbent was a permanent officer of the Indian Army and has since retired from that service. His appointment has been made on a year to year basis but not on contract.

(c) Does not arise.

(d) As stated above the present Chief Technical Adviser is a retired Indian army officer. He is eligible for re-employment under the Government like any other retired Government servant.

(e) M. I. Mech. E; about 32 years in the Indian Army Ordnance Factories as a regular Commissioned Officer. Was selected for the post of Additional Director General, Ordnance Factories, before his appointment in the Fertilizer Project. Pay Rs. 3,250. He has been allowed up to the date of his retirement from the Indian Army all the terms and conditions of service admissible to him in the Army, and the usual civil terms and conditions of service after his retirement therefrom in December 1947.

**Prof. K. T. Shah:** If I have understood the hon. Minister to say that the present incumbent was a retired officer of the Indian Army, may I know where he got the experience in this special business?

**Shri Gadgil:** So far as this officer is concerned, he has experience of building 11 factories. He was considered the topmost man and hence his appointment was made in the year 1945.

**Prof. K. T. Shah:** Eleven fertiliser factories? In what countries?

**Shri Gadgil:** No question of fertiliser factories in particular; but building of factories and assemblage of plants of similar types: that is his experience. The work he had done so far had been outstanding. In fact, he wanted to join another establishment. At the special request of the Government of India he had agreed to stay till the factory starts production, which will be in November next.

**Prof. K. T. Shah:** May I know if he has any academical qualifications in Chemical Science or Engineering?

**Shri Gadgil:** Not as such; no Chemical Engineering as such. As I have said in answer to part (a), he has extensive experience in the planning, execution, organisation and administration of big industrial projects.

**Shri Shiva Rao:** In view of the fact that the Sindri Fertilizer Factory has recently appointed a German expert to be in charge of production and who was himself in charge of a very much bigger fertilizer factory in Germany, what would be the relation between the Production Engineer or Production Adviser and the Chief Technical Adviser?

**Shri Gadgil:** The post of Chief Technical Adviser will come to an end as soon as Brigadier Cox retires, which will happen in the course of two months. The successor post is that of the General Superintendent. It has been advertised and the selection will be made through the Union Public Service Commission.

**Shri A. C. Guha:** Now that the erection of the factory is practically over, when is the term of the officer going to be ended?

**Mr. Deputy-Speaker:** In November; he has said so.

**Shri Amolakh Chand:** May I know the terms and emoluments on which the German expert is being employed?

**Shri Gadgil:** I want notice of that question.

**Prof. K. T. Shah:** The hon. Minister said that the appointment of the Chief Technical Adviser was from year to year. May I know whether this has helped in stabilising the general management and superintendence of this factory and in making a permanent policy?

**Shri Gadgil:** Will the hon. Member please repeat the question?

**Prof. K. T. Shah:** In as much as the appointment has been from year to year, according to what the hon. Minister said, has it in any way affected the permanent working of the factory?

**Shri Gadgil:** Not in the least.

#### INDIAN IMMIGRANTS INTO CANADA

\*1567-A. **Shri Jnani Ram:** Will the Prime Minister be pleased to state:

(a) the number of places for his year which will be used to regularise the status of Indian citizens at present resident in Canada and who wish to remain there permanently and to provide for the admission to Canada of immigrants from India;

(b) the steps taken by the Canadian Government to regularise the status of Indians who are at present resident in Canada and who are willing to remain there;

(c) the number of Indian Immigrants that would be invited to Canada; and

(d) the condition if any attached to the invitation?

**The Deputy Minister of External Affairs (Dr. Keskar):** (a) to (d). An annual quota of 150 Indian immigrants into Canada has been fixed under the Immigration agreement signed on the 25th January 1951 between the two countries. A copy of this agreement was placed on the Table of the House on the 2nd March 1951. The plans of the Canadian Government for the year 1951 are given in a Press Communique recently issued by that Government, a copy of which is now placed on the Table of the House. Government of India have no other information. [See Appendix IX, Annexure No. 36].

**Shri Jnani Ram:** May I know the number of Indians who have been accorded Canadian citizenship up till now in this year?

**Dr. Keskar:** This agreement was signed on the 26th January, 1951 and if the hon. Member will take the trouble of looking into the Press Communique issued by the Canadian Government, he will see that they are going to invite regular applications from intending emigrants, giving the facts and figures that they generally ask for. And so until they have formally admitted some Indians as citizens, it is not possible to find out how many persons have actually been admitted as new emigrants.

**Shri Jnani Ram:** May I know if the quota and the procedure for 1952 have been fixed and whether this procedure is to be followed from year to year?

**Dr. Keskar:** I do not know whether the hon. Member has studied the Communique. It is stated there that 150 is the quota fixed by the Canadian Government every year. It won't exceed that quota. The hon. Member will also see from the Communique that more than 150 have already applied even for 1952 and therefore, the question of how many will be taken in does not arise.

**Dr. Ram Subhag Singh:** May I know whether any preference in the matter of grant of Canadian citizenship will be shown to those Indians who have been there in Canada for a number of years?

**Dr. Keskar:** The Government will give some preference to those who are already in Canada and in a way regularise their position in Canada, provided, of course, they fulfil all the conditions required for an emigrant.

**Shri R. Velayudhan:** May I know, whether there is much demand for emigration of Indians to Canada?

**Dr. Keskar:** I am not able to give the number of those who have applied. That is with the Canadian High Commissioner and so it is not possible for me to give the hon. Member the information.

#### COMMONWEALTH CONFERENCE ON RAW MATERIALS

\*1568. **Shri Jnani Ram:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether India was represented in the Commonwealth Countries Raw Materials Conference held in September of this year;

(b) the persons who led the delegations; and

(c) the decisions arrived at the Conference?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) Yes.

(b) Indian delegation was led by me as the Minister for Commerce and Industry.

(c) The Conference was not called to arrive at any decision. The purpose of this Conference was frank exchange of views and of information.

**Shri Sidhva:** What information has the hon. Minister obtained as a result of his visit to this conference?

**Shri Mahtab:** The information I could get was about that regards the raw materials position, of non-ferrous metals and certain chemicals, there is scarcity throughout the world because some countries have taken up armament programmes. Therefore it would not be possible for India to get raw materials to the same extent as she used to get before.

**Shri Sidhva:** Did the hon. Minister make any contacts with any suppliers for meeting the requirements of our country? Is there any likelihood of such raw materials being available to us from the other countries?

**Shri Mahtab:** Of course, India would get proportionate quantities, along with other countries of the Commonwealth as some arrangement has been made for securing proportionate quotas for this country.

**Shri B. K. P. Sinha:** May I know if there was any exchange of views regarding the freezing or control of prices of raw materials, and if so what was the general consensus of opinion?

**Shri Mahtab:** As the hon. Member knows, each country in the Commonwealth is independent and no country can suggest measures to other countries. We exchanged our views as to how the controls are exercised in different countries and we took note of the conditions in other countries. But it is for each country to take the decision that it likes.

**Shri Jnani Ram:** May I know whether the quantity of raw materials available in India was disclosed at this conference?

**Shri Mahtab:** Details were not disclosed; but we could easily know what and how much of raw materials are available in each country, and how much one country can give to others.

**Shri Amolakh Chand:** May I know whether as a result of this conference and the experience gained by the hon. Minister, India is likely to get any new raw materials for any new industry in India?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** Yes.

**Shri B. K. P. Sinha:** May I know whether there was any exchange of views regarding the establishment of parity of prices between the prices of raw materials and capital goods?

**Shri Mahtab:** With regard to prices, although the matter was discussed, no general agreement could be arrived at because all the countries held different views in their own interests.

**Shri Jnani Ram:** May I know, whether any discussion took place as regards the fixation of prices of raw materials?

**Shri Mahtab:** While some countries wanted the prices of raw materials to be fixed at a steady level, some other countries who are exporters of raw materials did not like it and so there was only exchange of views.

**Shri R. Velayudhan:** May I know, whether from the point of view of India's requirements of raw materials, this conference was a success?

**Shri Mahtab:** The conference was a success in the sense that India knows her position to-day as to where she stands with regard to the supply of raw materials.

**Shri Sidhva:** The Deputy Minister just now answered in the affirmative

say, "Yes, Sir" to the question of my hon. friend Shri Amolakh Chand whether any new industry in India has got its raw materials made available as a result of this conference. May I know what kind of new raw material has now been made available?

**Shri Karmarkar:** I would require notice for that. In its very nature, it was an exploratory conference where the Commonwealth Ministers met and exchanged views.

**Mr. Deputy-Speaker:** But the House like to have first-hand information from the hon. Minister who had recently been to this conference.

**Shri Karmarkar:** Then I stand corrected, Sir.

**Mr. Deputy-Speaker:** The hon. Members are evidently interested and would like to have information from the hon. Minister who has recently been to this Conference. And so if there is no objection, he may issue a statement and circulate it among Members, giving in it whatever information he can give.

**The Prime Minister (Shri Jawaharlal Nehru):** I do not know what information the hon. Minister has in his possession; but it is not easy and it is not usual, especially after such secret conferences to issue any such statements, because they involve much private information which each country gives to the other, and it is not meant to be referred to in public. No doubt my colleague will, at the proper moment give such information as he may have at his disposal. But ultimately the information means rather a detailed analysis of what raw materials are available in this country and that, what each country's demands are and so on. But no resolution was arrived at and no final decision was taken, but knowledge is obtained of the position and some indication as to how perhaps one country might be able to help another. It is largely a question of how each country feels in the matter. There is no question of principle involved. It is the difficulty, of, let us say, how to make 100 per cent. become 300 per cent. So there is not very much in detail that one can say about it.

**Mr. Deputy-Speaker:** With respect to any question it is open to the Minister to say that it is not in the public interest to disclose the information. When questions are put on a matter and the Minister has no objection to answer I thought that whatever information they can give without prejudice to public interest they might give. Otherwise it is always open to them to say that it is not in the public interest to give the information.

**Shri Jawaharlal Nehru.** I intervened without the slightest knowledge as to what the hon. Minister can give or what he meant to give but rather generally having attended such conferences in the past it is not easy to give information except in the broadest terms of what they did.

#### KALKAJI TOWNSHIP

\*1569. **Shri Sidhva:** (a) Will the Minister of Rehabilitation be pleased to state the number of houses built in Kalkaji Township and the number so far occupied?

(b) Are facilities of drinking water, electricity and drainage available in the township and if not, why have they not been provided?

(c) Are new houses contemplated to be built in this township?

(d) Does any conveyance arrangement exist in this township?

**The Minister of State for Rehabilitation (Shri A. P. Jain):** (a) 100 houses and 1,000 tenements have been completed, out of which 51 houses and 70 tenements are occupied.

(b) Arrangements have been made for the supply of drinking water. The work of drainage is also in progress. But it has not been possible so far to provide electricity due to the short supply of distribution wires and other essential material.

(c) Yes. 706 tenements are under construction.

(d) Yes. Private licensed buses, are operating on this route.

**Shri Sidhva:** The Minister said that efforts are being made with regard to water supply. May I know whether there is any chance of getting water supply from the main reservoir or through sinking wells?

**Shri A. P. Jain:** We have made temporary arrangements for the supply of water from wells but we have built a big reservoir which will supply water to some 80,000 persons. That reservoir has been completed. The pipes and mains are being laid down and arrangements for the filtration of water are being done. I believe by the end of the present calendar year we shall be in a position to supply filtered clean water to all the residents of this and some other colonies as well.

**Shri Sidhva:** With reference to part (d) the Minister stated that a bus service runs. In view of the fact that the residents have to travel 10 to 12 miles every day, is it contemplated to have a shorter route connecting Kalkaji and Lajpat Nagar and if so, what steps do Government intend to take in this matter?

**Shri A. P. Jain:** In the first place I would like to correct the hon. Member by saying that the distance is only 7 to 7½ miles and not 10 to 12...

**Shri Sidhva:** From which part?

**Shri A. P. Jain:** From the zero mile of Delhi which is in front of the Red Fort.

**The Minister of State for Finance (Shri Tyagi):** Is the distance by motor car or by tonga?

**Mr. Deputy-Speaker:** The same distance appears to be longer according to the nature of the conveyance!

**Shri A. P. Jain:** One is measured in terms of distance and the other in terms of the time taken. Of course a tonga takes a longer time. We propose to lay down a road straight from Kalkaji to Lajpat Nagar, which will cut short the total distance by a mile and a half to two.

**Shri B. K. P. Sinha:** Have any schools, gymnasium and physical culture centres been established in this colony?

**Shri A. P. Jain:** A big school building is under construction and it is expected to be shortly completed. For the time being we are making arrangements to set up a temporary school in the work sheds which are at present not in use.

**Shri B. K. P. Sinha:** Any gymnasium or physical or culture centres?

**Shri A. P. Jain:** Punjabis do not require physical culture?

**Shri Amolakh Chand:** What is the number of displaced persons who are likely to be settled in this township?

**Shri A. P. Jain:** 1,700 multiplied by 5.

**Shri B. K. Das:** Do I understand that out of 1,000 tenements only 70 have been occupied?

**Shri A. P. Jain:** Temporary arrangements for water have already been made and actually 348 tenements and 70 houses have either been sold or allotted.

**Shri R. Velayudhan:** How many of these allotted houses have actually been accepted by the people? Is it a fact that some of the houses were certified by the P.W.D. as not suitable for habitation?

**Mr. Deputy-Speaker:** Before such questions are put I would urge upon Members to go round and see things for themselves.

**Shri R. Velayudhan:** I have been there, this year.

**Mr. Deputy-Speaker:** This year or last year, what does it matter. Off-hand questions should not be put which will not enlighten the House at all.

**Shri R. Velayudhan:** People are rejecting the houses and the Minister himself has condemned some of the houses.

**Mr. Deputy-Speaker:** Next question.

#### ENEMY PROPERTIES

\*1570. **Shri Sidhva:** (a) Will the Minister of Commerce and Industry be pleased to state the value of properties with the Director General of Enemy properties?

(b) How much of these belonged originally to Indian nationals who later acquired Japanese citizenship?

(c) Will all such properties be restored to their original owners now when the peace treaty with Japan is a settled fact?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) The total value of assets held by the Custodian of Enemy Property, Bombay, at present is estimated at Rs. 6.41 lakhs.

(b) So far only one case has been reported to the Custodian of Enemy Property which involves assets belonging to an individual who had originally been a British Indian subject but required Japanese nationality before the outbreak of war with Japan. The assets held by the Custodian on behalf of this particular individual are at present estimated at about Rs. 31,450.

(c) The matter is receiving attention of the Government.

**Shri Sidhva:** Besides the one British Indian mentioned by the Minister, how many other Indian Nationals' properties are in the custody of the Director General. In view of the answer to part (c) with regard to the peace treaty with Japan, do Government intend to release these properties?

**Shri Karmarkar:** With regard to the first part of the question I have no ready information with me regarding the number of persons whose properties are involved. As regards the second question, there are a number of considerations which have to be gone through before we decide it. For instance, we have to take into consideration, among other factors, the nationality of the owner at the material time

when the property was vested, nationality of the owner prior to his securing property, nationality prior to vesting, etc.

Government is hoping to finish the examination of the question at an early date.

**Shri Sidhva:** Will the properties of those nationals, who were originally born in India but somehow happened to be in Japan and acquired Japanese citizenship, be affected after the peace treaty is concluded?

**Shri Karmarkar:** That will also be considered.

#### JAPANESE EXPERTS TO INDIA

\*1571. **Shri Sidhva:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether it is a fact that Japan intends to send a team of industrial, financial and agricultural experts to India to help her draft plans for development of resources under the Five-year Economic Expansion Programme;

(b) if so, whether the Government of India were consulted and what plans are likely to be placed before those experts; and

(c) whether it is the intention of the experts to obtain raw material for Industrial purpose from India?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) to (c). Government have received a report to the effect that a Private Japanese Industrial Mission is arriving in India which will contact Indian Commercial circles. This Mission is not coming at the invitation of the Government of India for any official purpose.

**Shri Sidhva:** When does the Mission intend to arrive? Are they coming here for the purpose of exploring the possibility of importing some of the important raw materials produced in India, which Japan was previously obtaining from China?

**Shri Karmarkar:** So far as I know the Mission is an industrial mission which wants to introduce Japanese machinery to the Indian market. Their purpose is to contact the industrial and commercial world and beyond that I have no further information.

**Shri Sidhva:** Have they come?

**Shri Karmarkar:** They have not yet come.

**Shri M. Naik:** In what way have they sought the co-operation of the Government of India?

**Shri Karmarkar:** We have no definite information on the subject at all. They have not sought our co-operation in any way.

#### Dhoties AND Sarees (PRICES)

\*1572. **Shri Kshudiram Mahata:** Will the Minister of Commerce and Industry be pleased to state:

(a) the average ex-mill prices of coarse, medium, fine and superfine *Dhoties* and *Sarees* in December 1943, when prices were first stamped on them; and

(b) the average ex-mill prices of those four varieties of *Dhoties* and *Sarees* in 1945, 1946, 1948, 1950 and 1951?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) and (b). A Statement is laid on the table of the House. [See Appendix IX, annexure No. 37].

**Shri Kshudiram Mahata:** What is meant by the words "ex-mill rates ruling"? Is it maximum or minimum?

**Shri Mahtab:** The rates prevailing or in force at that time. Ex-mill rate ruling in December means the prevailing ex-mill price at that time.

**Shri Kshudiram Mahata:** From the statement it appears that the price of superfine *dhoties* is Rs. 10-10-6. Is Government aware of the fact that in the market there are no superfine *dhoties* at this ex-mill rate, and all the superfine *dhoties* available in the market have ex-mill prices of Rs. 12 or higher?

**Shri Mahtab:** So far as superfine cloth is concerned, I don't think it fetches more than the stamped price. My information is that in many markets superfine cloth is now being sold at below the stamped price because the price is very high and also because the prices are coming down. That is the case with superfine cloth. As regards the stamped price, it includes the ex-mill price plus 14 per cent. for the wholesalers and retailers' commission.

**Shri Kshudiram Mahata:** My point was whether Government is aware of the fact that in the market superfine *dhoties* are not available at below Rs. 12 ex-mill price.

**Shri Mahtab:** I could not follow the question—it seems there is some misunderstanding.

**Mr. Deputy-Speaker:** The retail price is certainly more than the ex-mill price.

**Shri Kshudiram Mahata:** I am enquiring about the existence of ex-mill price of Rs. 12 and above, whereas here it is shown as Rs. 10-10-6.

**Shri Mahtab:** This is ex-mill price—the hon. Member is referring to the stamped price.

**Dr. Ram Subhag Singh:** It was recently announced by Government that prices of fine and superfine cloth would be reduced by 45 per cent. or something like that. May I know whether that reduction has been given effect to by the cloth dealers?

**Shri Mahtab:** That is the quarterly revision of prices.

In October the quarterly revision has taken place and it has been announced that prices will be reduced accordingly; it will have effect from October.

**Dr. Ram Subhag Singh:** But this is October?

**Shri Mahtab:** True, it will be effective from the current month.

**Shri Amolakh Chand:** May I know whether, in view of the fact that the actual sale price of a *dhoty* will be less than the price printed thereon, Government propose to safeguard purchasers from the higher price printed on the *dhoties*?

**Mr. Deputy-Speaker:** It is a question of supply and demand—prices will naturally go down.

**Shri Mahtab:** As I once explained, the prices in the case of cloth do not depend on demand and supply because the prices are controlled. It is open to the mill-owners to sell their free sale quota at any price below the control price. In some cases they are selling it at a lower price in order to relieve themselves of the stock. Now, those wholesalers, that is the State nominees, who have purchased from the mills at a fixed price cannot afford to sell the cloth at a lower price.

**Shri Syamnandan Sahaya:** The price of superfine cloth will, from October, be reduced by 15 per cent.

**Dr. Ram Subhag Singh:** 45 per cent.

**Shri Syamnandan Sahaya:** Not 45, by about 15 per cent., but the same quality...

**Shri Sidhva:** Sir, can a Member put a question while chewing *pan*?

**Mr. Deputy-Speaker:** Now that it has been raised, hon. Members will attend to it themselves. Really it is embarrassing to Members who hear and embarrassing to Members who put questions.

**Shri Syamnandan Sahaya:** Well, Sir, cloth has been made available in October at lower prices. The question is, in view of the fact that the same variety of cloth will be in the market, one stamped with a price 15 per cent. higher and the other 15 per cent. lower, have Government made any arrangements to see that these prices will be equalized? Otherwise there will be room for difficulty.

**Shri Mahtab:** If the same variety of cloth is available in the market at different prices, certainly the buyers will prefer the lower price and they will purchase the cloth with the lower price, and that will balance the whole thing. The shopkeepers know their business and therefore they will strike a mean. It is not possible for Government to equalize the prices because the cloth quota has already been purchased by the nominees from the mills and today if the prices are reduced there is nobody to compensate the loss.

#### *Dhoties AND Sarees*

\*1573. **Shri Kshudiram Mahata:** Will the Minister of Commerce and Industry be pleased to state:

(a) the percentage of *Dhoties* and *Sarees* out of the total production of mill cloth during the period from November 1950, to June 1951; and

(b) the percentage of *Dhoties* and *Sarees* out of the allotments made to different States during the period from January 1951, to July 1951?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) A statement is laid on the Table of the House.

(b) This information is not readily available.

## STATEMENT.

*The Dhoties and Sarees packed for civil consumption out of the total mill cloth produced during the period November 1950 to June 1951.*

Month of packing	Total packings for civil consumption (Bales)	Packings of dhoties (Bales)	Per cent.	Packings of sarees (Bales)	Per cent.
November, 1950	107,694	15,533	14.4%	18,467	17.1
December, 1950	107,137	15,535	14.5	18,012	16.8
January, 1951	60,988	9,179	15	7,326	12
February, 1951	112,860	12,253	10.9	12,069	10.7
March, 1951	167,808	21,825	13	15,278	9.1
April, 1951	230,896	48,490	22	28,558	12.9
May, 1951	252,888	52,385	20.7	27,767	11
June, 1951	261,601	58,137	22.2	25,522	9.8

**Shri Kshudiram Mahata:** The statement laid on the Table gives only the percentage of dhoties and saris packed for civil consumption. My question was not with regard to that. My question was about the percentage of dhoties and saris out of the total production of mill cloth during the period November to June 1951.

**Shri Mahtab:** I am very sorry—there seems to be a mistake on that point. If the hon. Member wants, I shall place a correct statement on the Table. Here the figures given relate to total packings; that is to say, the percentage of production has not been taken into account. Perhaps the hon. Member wants the total production and the percentage released for civil consumption—these figures I will place on the Table of the House.

**Shri Sidhva:** May I know whether saris and dhoties are available in sufficient quantities in Bombay City? If so, what is the percentage that is now available in this quarter as compared with the previous quarter?

**Shri Mahtab:** When I went to Bombay last I found there were at least 30,000 bales in Government shops; in view of that I don't think there is any shortage in Bombay. The wholesale and retail arrangements are entirely managed by the local Government and that being so I don't think there is likely to be any shortage in Bombay City.

**Shri R. Velayudhan:** Is the Minister aware that there is a glut in cloth only with wholesalers whereas there is no cloth available with retailers?

**Shri Mahtab:** It is for the State Government concerned to arrange distribution, but I don't think it can happen: if the wholesalers have got large stocks with them they must try to pass them on to retailers...

**Shri R. Velayudhan:** They are not doing it.

**Shri Mahtab:** And I don't see why wholesalers are keeping the stocks with themselves.

**Shri J. N. Hazarika:** Is the hon. Minister in a position to give the percentage of production of Markin cloth varying from 32 inches to 48 inches wide meant for civil consumption and is there any increase in production in this cloth during the last six months?

**Shri Mahtab:** I have not got that information with me now.

## INDUSTRIAL HOUSING

\*1574. **Shri Kshudiram Mahata:** Will the Minister of Labour be pleased to state:

(a) the cost per unit of residential quarters constructed for labourers in Dhanbad coal field and in Bombay;

(b) the number of rooms in each unit;

(c) whether there are separate kitchen and bath room for each unit; and

(d) what is the arrangement for water for such buildings?

**The Minister of Labour (Shri Jagjivan Ram):** (a) No information in respect of residential quarters constructed in Bombay is available. It is being collected and will be placed on the Table of the House in due course. As regards Dhanbad coal fields, the average cost per unit is Rs. 3,450. The replies below to the remaining parts of the question also relate only to the Dhanbad coalfields.

(b) Two.

(c) There is a separate kitchen and a bathing platform in each unit.

(d) Supply of water is made from wells through hydrants located at convenient spots.

**Shri Kshudiram Mahata:** May I know whether any furniture is supplied in these quarters?

**Shri Jagjivan Ram:** No.

**Shri Sidhva:** The hon. Minister stated that statistics for Bombay are not available. May I know whether the Government of India have no statistics as far as quarters for labourers are concerned? Does not the Chief Inspector of Factories maintain some facts?

**Shri Jagjivan Ram:** It is not merely a question of statistics, but details regarding the number of houses, their cost, their specification, their accommodation, plinth area and so on. We do not possess all this information in respect of every quarter constructed in the country.

**Shri Shiva Rao:** Will my hon. friend ascertain from the Bombay Housing Board the cost of building operations undertaken by that Board and particularly confirm the fact that their rates are much lower than those of the Bombay P.W.D.?

**Shri Jagjivan Ram:** Even without ascertaining that fact, I can safely say that the cost of departmental working either by the Bombay Housing Board or by the Labour Ministry is definitely lower than the rates of the P.W.D. in the States concerned.

**Shri Kshudiram Mahata:** What is the amount that is charged as rent from the labourers for these quarters?

**Shri Jagjivan Ram:** At present, no rent is being charged from the labourers but the employers are to contribute something on their behalf.

**Shri Lakshmanan:** May I know whether the policy of Government in giving a subsidy of 20 per cent. to the colliery owners for construction of quarters for labour has stepped up industrial housing to any extent?

**Shri Jagjivan Ram:** Yes, it has. They have begun the construction of a few hundred houses and I think they are making progress.

**Shri Shiva Rao:** In view of my hon. friend's reply to my last question, is any attempt being made either by his Ministry or the Ministry of Health to bring down building costs to the minimum, whether the construction is undertaken by the C.P.W.D. or anyone else?

**Shri Jagjivan Ram:** I cannot speak on behalf of the Health Ministry, but I can say on behalf of the Labour Ministry that the industrial housings that we have undertaken are being constructed departmentally and every effort is being made, in consultation with the C.P.W.D. as well, to bring down the cost as far as possible. But keeping in view the general trend of the cost of material and labour, we find that there has been a progressive increase in the cost of construction. I can give the figures. When we started our Dhanbad housing, the cost of one unit in 1946 was Rs. 2,399 and we constructed some houses at that cost. But it went on progressively rising to Rs. 2,699, Rs. 3,299 and at present it stands at Rs. 3,450.

**Shri Sidhva:** May I know whether Government have any proposal under consideration for seeing that each of these tenements is self-contained, that is to say, with a kitchen, water closet and a bath room?

**Shri Jagjivan Ram:** That will depend upon the nature of the locality where these houses are constructed. In big cities like Bombay and Calcutta, a self-contained unit with all the facilities mentioned by my hon. friend may be necessary but in areas like Dhanbad or the coalfields in C.P. where we are not short of space, all these facilities in the same unit might not be necessary and in fact might cause inconvenience to the occupants.

**Shri Kshudiram Mahata:** The other day the hon. Shri Gadgil said that a man living in a quarter having furniture worth not more than Rs. 3,000 is a *sanyasi*. May I know whether the Labour Minister has considered this proposition in respect of labourers?

**Mr. Deputy-Speaker:** Order, order. Next question.

COAL AND IRON ORE (EXPORT TO JAPAN)

\*1575. **Shri Lakshmanan:** (a) Will the Minister of Commerce and Indus-

try be pleased to state whether negotiations are being carried on by Japan for import of coal and iron ore from India?

(b) What decision, if any, have Government taken in this matter?

(c) Which are the countries to which coal and iron ore are now being exported?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) Yes.

(b) It is too early to make a definite statement in this regard at the present moment.

(c) India is exporting coal to Burma, Ceylon, Singapore, Hongkong, Japan, Australia, Pakistan, Egypt, Italy, Libya, Indonesia, Denmark, U.K., and Iron ore to Czechoslovakia, Japan, Netherlands, Roumania, Germany (West) and Belgium.

**Shri Lakshmanan:** May I know the quantity of iron ore that is being produced annually and what portion of it, may I know, is being exported?

**Shri Karmarkar:** The reserve of iron ore containing 53 to 64 per cent. of iron ore is estimated to be 4.172 million tons.

**Mr. Deputy-Speaker:** He is not asking for the reserve. He wants to know the annual production.

**Shri Karmarkar:** I have not got the production figures.

**Shri Lakshmanan:** What has become of Government's proposal to start a pig iron plant? Will it materialise in the near future?

**The Minister of Commerce and Industry (Shri Mahtab):** I have addressed letters to several industrialists and I am trying to persuade them to set up a pig iron plant as soon as possible.

**Shri M. Nalk:** May I know if the export of iron ore is in any way being hampered by lack of shipping space and internally by lack of rail transport?

**Shri Karmarkar:** No.

#### REHABILITATION

\*1576. **Dr. Ram Subhag Singh:** Will the Minister of Rehabilitation be pleased to state:

(a) the State or States where the displaced persons from East Pakistan who came over to this country during the "recent influx" are being settled;

(b) the estimated amount of money which is needed to meet this emergency expenditure; and

(c) what portion of this expenditure the State Governments are prepared to bear?

**The Minister of State for Rehabilitation (Shri A. P. Jain):** (a) West Bengal, Bihar, Orissa, Tripura and Assam.

(b) Rs. 1.30 crores.

(c) None.

**Dr. Ram Subhag Singh:** May I know the amount so far given by the Central Government in regard to resettling these refugees?

**Shri A. P. Jain:** The expenses are being incurred by the respective State Governments. They will be passed by their Accountants General and then payments are made.

**Dr. Ram Subhag Singh:** What is the present trend? Is there a receding in the influx of refugees from Pakistan?

**Shri A. P. Jain:** I shall give figures from June onwards:

June 1951—Influx 1,51,000.  
Exodus 1,26,300.  
Nett influx 24,700.

July 1951—Influx 1,44,400.  
Exodus 1,07,400.  
Nett influx 37,000.

Aug. 1951—Influx 1,12,600.  
Exodus 84,400.  
Nett influx 28,200.

Sep. 1951

(upto 24th)—Influx 69,200.  
Exodus 61,300.  
Nett influx 7,900.

It will thus be seen that the situation has considerably improved in September.

**Sardar Hukam Singh:** Are these refugees being settled permanently now, or are they settled with the idea that they shall have to go back?

**Shri A. P. Jain:** So far as our rehabilitation schemes are concerned, they are always on a permanent basis, but if a refugee at a subsequent time abandons the rehabilitation centre, we cannot force him to remain there.

**Shri B. K. Das:** What is the number of persons staying in Sealdah Station?

**Shri A. P. Jain:** I have not got the latest figures. I require notice.

**Shri S. C. Samanta:** May I know the percentage of displaced persons who have recently come back after having gone to Pakistan for being settled as compared with the percentage of those who went there?

**Shri A. P. Jain:** We do not maintain statistics as to whether a person who has come from East Bengal to West Bengal first came from East Bengal to West Bengal and then he went from West Bengal to East Bengal and has again now come from East Bengal to West Bengal.

**Shri Barman:** Will the hon. Minister be pleased to state whether the influx and exodus relate to the same community, say the Hindu community or also the Muslim community?

**Shri A. P. Jain:** The figures I have given relate to non-Muslims.

#### IMPORT OF AVIATION FUEL

\*1577. **Dr. Ram Subhag Singh:** Will the Minister of Works, Production and Supply be pleased to state:

(a) whether it is a fact that some aviation fuel has recently been imported from Borneo and the U.S.A.; and

(b) if so, what is the quantity so far imported from these places?

**The Minister of Works, Production and Supply (Shri Gadgil):** (a) From U.S.A. only, Borneo produces no aviation spirit.

(b) A few shipments of Aviation spirit have either arrived in India or are due to arrive shortly. The total quantity is of the order of 7 million gallons or about 30 per cent. below normal requirements.

**Dr. Ram Subhag Singh:** May I know, what percentage of aviation fuel is produced in India?

**Shri Gadgil:** Nothing is produced indigenously, so far as aviation spirit is concerned.

**Shri Ram Subhag Singh:** May I know, whether Government contemplate to develop our oil resources?

**Shri Gadgil:** So far as aviation spirit is concerned, there is no prospect. As regards other matters the matter is under consideration.

**Shri Sidhva:** The hon. Minister stated that we are still short of our aviation fuel requirements by about 30 per cent. May I know whether this is likely to be received during the course of this month or next month?

**Shri Gadgil:** The fact is that as soon as trouble started at Abadan, the company diverted the supply of Civil aviation spirit from other sources and a tanker was received in September. That has improved the position. Another tanker carrying substantial quantities of this product has been

arranged ex-U.S.A. and is expected to arrive in India early in October 1951. With the arrival of the latter shipment the stock position will considerably improve and there is every likelihood that the cut imposed on the consumption of aviation spirit might be partially restored.

#### WAR LEVY ON HINDUS IN EAST BENGAL

\*1579. **Shri Krishnanand Rai:** Will the Prime Minister be pleased to state:

(a) whether Government have made any enquiry or have received any official information about the imposition of a compulsory war levy by the East Bengal Government on the non-Muslim population there;

(b) whether such action by the East Bengal Government is not completely contrary to the spirit of the Indo-Pakistan Agreement; and

(c) if so, whether Government have sent any protest to Pakistan in this respect?

**The Deputy Minister of External Affairs (Dr. Keskar):** (a) to (c). Enquiries show that reports of a compulsory war levy on the non-Muslim population in East Bengal are not true. However it appears that at more than one place levies of other kinds are being made, e.g., contributions to Ansar Fund, National Defence Fund, Civil Defence Fund, etc. We have brought these reports to the notice of the Pakistan Government and requested them to have full enquiries made into them and to take necessary action to ensure that members of the minority community are not singled out for any special levy of this kind.

**Shri Krishnanand Rai:** May I know whether Government is aware of the fact that the East Bengal Government has realised money and is realising money even from Indian citizens who are passing in buses to Assam through Pakistan?

**Dr. Keskar:** As I have said, levies of other kinds which are not called war levies are being realised by the Pakistan Government and it is quite possible that Indian citizens who have gone to East Pakistan and are coming back are also subjected to this kind of contribution. I would like to inform my hon. friend that the complaints—which we have verified to some extent—are that passengers proceeding from some places like Karimganj by motor buses are forced to pay a contribution to the Sylhet District Ansar Fund at rates varying from annas four to one rupee per head. Probably the hon. Member is referring to this kind of levy.

Then, in some districts like Chatganj, Dinajpur and Rangpur, contributions are being raised to the National Defence Fund by district officers and in some places district officers have asked people of the division to contribute to the fund started for the troops stationed there, to which targets are fixed. The reports are that the minority communities are made to pay more to this fund than the others.

**Shri Krishnanand Rai:** May I know whether Government is in a position to state the amount that has been realised from the minority community for such essential contributions?

**Dr. Keskar:** It is manifestly impossible for us to gather statistics of things happening in another country.

**Shri Sidhva:** May I know whether this levy is realised by the government agency absolutely, or by private agencies, that is whether the money collected goes to the coffers of the Pakistan Government or to some other private agency?

**Dr. Keskar:** It is both. The levy for example referred to by my hon. friend realised from people who are going by motor bus is made by some private agencies like the Ansars, but certain of the special contributions for war funds or for amenities for troops which are realised by the district officers can be called official levy.

**Shri Kamath:** Is it a fact that Hindus who refused to pay this levy have been harassed, or otherwise heavily penalised by the Pakistan Government?

**Dr. Keskar:** I have no specific information, but it is quite possible.

**Shri Kamath:** Have Government called for detailed reports from our Minister Mr. Biswas and the Deputy High Commissioner in Dacca?

**Dr. Keskar:** Yes.

**Shri Chattopadhyay:** May I know what reply was received from the Pakistan Government to what has been written by the Government of India on this?

**Dr. Keskar:** I think the Pakistan Government totally denied that any war levy is being made on the minorities in East Pakistan. Then we drew their attention the fact that the levies which are not called war levies, but which in fact amount to such are being made in different areas though not probably on a provincialwise scale, and this also should be stopped.

**Dr. Ram Shubag Singh:** The hon. Minister stated that contributions have been realised even from Indian citizens going on buses from Karimganj to Sylhet and some places in Chetgunj. May I know, whether such contributions are still realised and what steps do Government propose to take for stopping such realisations?

**Mr. Deputy-Speaker:** They have already written to the Pakistan Government. What more can be done?

**Shri Sidhva:** This morning's newspapers stated that the Government of India intend to institute an enquiry. May I know whether that report is correct?

**Dr. Keskar:** We are making a detailed enquiry, as I said, and we have asked the Pakistan Government to furnish us with a reply to the accusations which have been verified.

**Shri Kamath:** Has the Pakistan Government even acknowledged the receipt of our communication so far?

**Dr. Keskar:** In this matter we have received a communication that they have received our letter.

#### EUROPEAN ECONOMIC CO-OPERATION

\*1580. **Shri Krishnanand Rai:** Will the Minister of Commerce and Industry be pleased to state:

(a) whether some countries of Europe have formed any organisation, viz., European Economic Co-operation;

(b) if so, whether India has trade relations with these countries;

(c) whether members of the European Economic Co-operation afford any special facilities in trade and commerce *inter-se*;

(d) if so, whether India stands in any disadvantageous position in trading with them; and

(e) if not, what is the actual position?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) The European countries participating in the Marshall Aid programme have formed an Organisation for European Economic Co-operation.

(b) Yes.

(c) With a view to expanding trade amongst themselves the countries forming the Organisation for European Economic Co-operation have progressively relaxed restrictions on imports

from member countries and have also adopted multilateral system of payments known as the European Payments Union.

(d) and (e). It is not obligatory for member countries of the O.E.E.C. to extend their trade liberalisation measures to India. Nevertheless most of the member countries have agreed to extend these concessions to India in so far as they affect her. In a few cases in which liberalisation measures adversely affect India, the matter is being pursued.

**Shri Krishnanand Rai:** May I know, what European countries of the European Economic Co-operation Group have afforded equal facilities to India?

**Shri Karmarkar:** The countries that have afforded equal opportunities are U.K., Sweden, Norway, Belgium, Denmark and Luxemburg.

**Shri Krishnanand Rai:** May I know, whether the European members of the Commonwealth afford some special facilities to other members of the Commonwealth and if so whether there is any special privilege in their being members of the Commonwealth *inter se*.

**Shri Karmarkar:** Apart from the UK no other member of the Commonwealth is a member of the European Economic Co-operation I am afraid, therefore, that the other question does not arise.

**Shri R. Velayudhan:** May I know whether it is a fact that the European Economic Co-operation has recently decided not to send any arms or ammunition, if India wants to purchase these from those countries?

**Shri Karmarkar:** No.

**Dr. Ram Subhag Singh:** May I know whether it has come to the knowledge of Government that General Eisenhower, the Supreme Commander of the North Atlantic Treaty Organisation has directed member countries of that organisation not to send any arms or ammunition to India?

**Shri Karmarkar:** I have already answered that question.

## खादी

\*१५८१. श्री जांगड़े: क्या वाणिज्य तथा उद्योग मन्त्री यह बतलाने की कृपा करेंगे कि जिस प्रकार मैसूर सरकार ने खादी

उत्पादन प्रचार तथा प्रसार के लिये एक लाख रुपये व्यय करके खादी विकास पण्ड की स्थापना की है उसी प्रकार केन्द्रीय प्रशासित क्षेत्रों में उक्त प्रयोजनार्थ क्या केन्द्रीय सरकार ने कोई योजना तैयार की है अथवा तैयार करने का विचार है ?

KHADI

[\*1581. **Shri Jangde:** Will the Minister of Commerce and Industry be pleased to state whether the Government of India have prepared or are preparing any scheme for the production and popularisation of Khadi in the Centrally Administered Areas as the Mysore Government have done by establishing a Khadi Development Board at a cost of rupees one lakh?]

The Minister of Commerce and Industry (Shri Mahtab): No.

श्री जांगड़े: क्या माननीय मन्त्री महोदय बतलायेंगे कि गत वर्ष सरकार ने जो विभिन्न मन्त्रालयों में खादी खरीदने के लिये और प्रयोग करने के लिये आदेश दिये थे, उसके कारण खादी के प्रयोग में कुछ वृद्धि हुई है ?

[**Shri Jangde:** Will the hon. Minister be pleased to state if there has been some progress in the use of Khadi for which last year the Government ordered the various secretariats to purchase and use it?]

**Shri Mahtab:** I have not got the figures. But instructions have been issued to all the Ministries to purchase khadi as far as possible.

## LOAN TO BATA SHOE COMPANY

\*1583. **Dr. M. M. Das:** Will the Minister of Rehabilitation be pleased to state:

(a) whether it is a fact that a scheme for the grant of a loan of Rs. 11 lakhs to the Bata Shoe Co. Ltd., Calcutta, for the construction of houses for displaced persons from Eastern Pakistan, has been finalised, and

(b) if so, the salient features of the scheme?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) Yes.

(b) A statement giving the salient features of the scheme is laid on the Table of the House. [See Appendix IX, annexure 38].

**Dr. M. M. Das:** May I know whether any other firm, excepting building contractors, have been appointed as contractors for construction of buildings on behalf of the Government, except the Bata Shoe Company?

**Shri A. P. Jain:** Bata has not been appointed as an agent to do any construction on behalf of Government. They have been advanced a loan.

**Mr. Deputy-Speaker:** The Question Hour is over.

#### Short Notice Questions and Answers.

#### MERGER OF ABU-ABU ROAD TALUKA WITH RAJASTHAN

**Shri Bhatt:** Will the Minister of States be pleased to state:

(a) whether it is a fact that there is a demand of the public of Abu-Abu Road Taluka of the former Sirohi State for the inclusion of the Taluka into Rajasthan, their original homeland;

(b) whether Government propose to redress their long-standing grievance in the matter and if so, what steps Government have taken or propose to take;

(c) whether Government have addressed any communication on the subject to the Government of Bombay and Rajasthan; and

(d) whether it is intended to introduce in the next session of Parliament, a Bill to restore Abu-Abu Road Taluka to the State of Rajasthan?

**The Minister of States, Transport and Railways (Shri Gopaldaswami):** (a) There is a demand for inclusion in Rajasthan from the public of the portion of the former Sirohi State now included in Bombay.

(b) The grievance is not so long-standing after all. The Government recognised that there is *prima facie* a case for re-examining the decision taken in January 1950 for the inclusion of this portion in the Bombay State. But they consider that this re-examination and the question of whether any action should be initiated under Article 3 of the Constitution should wait till the general elections are over and new legislatures and Governments have thereafter come into being in both the States of Bombay and Rajasthan.

(c) The Governments of both Bombay and Rajasthan have been informed that the question should be taken up

for re-consideration soon after the general elections are over.

(d) Government have no intention now of introducing in the present Parliament a bill for the purpose suggested.

**श्री भट्ट:** क्या माननीय मन्त्री जी बतायेंगे कि सरकार ने राजस्थान और बम्बई की सरकार को कब पत्र लिखा है ?

[**Shri Bhatt:** Will the hon. Minister, please, state as to when the Government wrote to Rajasthan and Bombay Governments?]

**Shri Gopaldaswami:** About the beginning of September.

**Shri Sidhva:** May I know whether the hon. the questioner himself approved of the proposal when it came up in the Constituent Assembly—for merging this Abu Road with Bombay?

**Mr. Deputy-Speaker:** Under the rules one hon. Member can put a question to another hon. Member also.

**Shri Sidhva:** Yes. Under the rules it can be done.

**Mr. Deputy-Speaker:** But whether this ought to be allowed or not, I doubt!

**Shri Chattopadhyay:** May I know whether it is a fact that Mr. Gokulbhai Bhatt was a party to the division of Sirohi and giving a part of Sirohi to Bombay?

**Shri Sidhva:** That was my question.

**श्री भट्ट:** मैं ने पिछली मर्तबा बजट सेशन के समय यह साफ़ किया था कि मैं इसमें किसी तरह से शामिल नहीं था और मैं ने इसमें कभी अपनी सम्मति नहीं दी थी ।

[**Shri Bhatt:** Last time in the budget session I had made it clear that I was in no way a party to it and had never given my opinion for it.]

**Shri Sidhva:** May I know, Sir, whether he opposed this?

**Mr. Deputy-Speaker:** The ought not to be converted—Mr. Gokulbhai Bhatt ought not so be made a Minister now!

**Shri M. C. Shah:** May I know whether this is an election stunt on the part of the hon. Member Mr. Gokulbhai Bhatt?

**Shri Gopaldaswami:** Sir, I am very grateful that all the supplementaries are being directed to the hon. Member.

**Dr. Ram Subhag Singh:** What will happen to the representative or representatives who will be chosen by Abu and Sirohi during the general elections? Will they continue to sit in the Bombay Legislature, or, if the Government decides that it should be incorporated into Rajasthan, will they be transferred to Rajasthan?

**Mr. Deputy-Speaker:** What is the good of asking the opinion of the hon. Minister until it is done?

**Shri Gopaldaswami:** May I answer that, Sir?

**Mr. Deputy-Speaker:** Yes.

**Shri Gopaldaswami:** The representatives elected during the coming general elections will be elected to the seats, wherever they may be, which conform to the present arrangements. The decision of the Government as to whether this should be re-included in Rajasthan will affect only subsequent arrangements.

**Shri Sonavane:** Will the hon. Minister of States consider similar representations of taking one portion from one State to the other where grievances are represented to him, as he has done in this case?

**Shri Gopaldaswami:** If the grievances are such that the Government consider that there is a *prima facie* case for re-examination, they will no doubt take the same action.

**Shri B. K. P. Sinha:** May I know if the hon. Member, Shri Gokulbhai Bhatt, though not a party to this arrangement, acquiesced in it?

**Mr. Deputy-Speaker:** I will proceed to the next short notice question.

**Shri T. N. Singh:** Why should the hon. Member, Mr. Bhatt, not be appointed Deputy Minister of States?

RESIGNATION OF SHRI ACHHRU RAM,  
FORMER CUSTODIAN GENERAL OF  
EVACUEE PROPERTY

**Shri Kamath:** Will the Minister of Rehabilitation be pleased to state:

(a) whether the attention of Government has been drawn to the statement (vide *Hindustan Times* dated the 30th September, 1951) issued by Shri Achhru Ram, former Custodian-General of Evacuee Property explaining his resignation from office;

(b) whether the facts and circumstances relating to the case of Mr. Chhatriwala as narrated by Shri Achhru Ram are correct;

(c) whether his charges against the Minister of State for Rehabilitation, of "unworthy insinuation, as much lacking in truth as it is in grace", and of "wild and extravagant statements" are correct; and

(d) whether the post of the Custodian-General of Evacuee Property is going to be filled?

**The Minister of State for Rehabilitation (Shri A. P. Jain):** Sir, I am answering all the questions in the form of a rather longish statement.

**Shri Kamath:** Will it preclude supplementaries?

**Mr. Deputy-Speaker:** Is it a very long one? How big is it?

**Shri A. P. Jain:** About four pages.

**Mr. Deputy-Speaker:** It will take away the time of the House.

**Shri A. P. Jain:** Just as you like. But I thought it fair, when the matter has assumed a certain amount of importance—there has been quite a bit of a controversy—that I must place all the facts before the House.

**Mr. Deputy-Speaker:** I leave it to Government. Whatever time is taken by the answer to this question, to that extent Government will lose the time for the purpose of Bills. I have no objection if they agree among themselves.

**Shri A. P. Jain:** Sir, so far as I am concerned I will place it on the Table.

**Shri Kamath:** But we must know the contents now.

**Mr. Deputy-Speaker:** Order, order. A long statement cannot be read merely because an hon. Member wants to know it.

**Shri Kamath:** Not an hon. Member the whole House demands it. And it is an important issue.

**Mr. Deputy-Speaker:** In view of the importance of the question I will allow the answer to be read.

مجلس آف ایجوکیشن (مولانا آزاد)

جناب - اس مہن کافی ہاؤس کا تائم

جائیکا - بہتر ہوگا اس کو ہاؤس کی

تہدیل پر رکو دیں -

[**The Minister of Education. (Maulana Azad):** It will take much time of the House. It will be better to place it on the Table of the House.]

**Shri Kamath:** No, Sir.

**Mr. Deputy-Speaker:** All right. As a special case I will allow supplementaries on this tomorrow. Let it be placed on the Table today.

**Shri A. P. Jain:** Sir, I lay the statement on the Table.

*Statement*

(a) to (d). On 10th September 1951 Shri Achhru Ram met me at my request and I talked to him generally on the two mutually contradictory views expressed by him in his orders dated 6th September, 1950 and 1st September, 1951 on the question of Shri Chhatriwala having settled in India. I also talked to him about the scope of a certificate issued by Government under Section 16(1) of the Administration of Evacuee Property Act. I told Shri Achhru Ram that I would later be writing to him on these matters. Before I could write to him, Shri Achhru Ram sent me a letter of 12th September 1951. In this he took up the position that

“the power to grant the certificate cannot be extended so as to include within its purview anything more than a certificate empowering the Custodian to entertain the application”.

Thus the scope of a certificate granted by Government under Section 16 was circumscribed by Shri Achhru Ram to a still greater extent than was done by him in the case of Shri Chhatriwala.

During the passage of the Administration of the Evacuee Property Act 1950, Government had given an assurance to Parliament that a person who had returned before the introduction of the Permit System, i.e. July 18, 1948, and had settled in India would not be treated as an evacuee. In order to give effect to this undertaking a notification was issued on 3rd July 1950. When Shri Chhatriwala's case came up for hearing before the Custodian General, it was pleaded on his behalf that he was entitled to the benefit of the notification. The Custodian General came to the conclusion that the case was covered by clause (a) of the notification, which meant that Shri Chhatriwala had returned to India before 18th July 1948 and had settled in India. He held, however, that the notification could not apply to properties which had vested in the Custodian when Ordinance XII of 1949 was in operation. In other words, the noti-

fication had no retrospective effect. Government accepted this view although it had the effect of defeating the policy decision to which it stood committed before Parliament. Government also accepted the finding of the Custodian General that the case of Shri Chhatriwala conformed to the conditions of clause (a) of the notification and in order to give effect to its commitments decided to grant to Shri Chhatriwala a certificate under Section 16(1) of Act XXXI of 1950 which would entitle him to the return of his property. When the case again came up before the Custodian General in revision, he went back on his earlier view and re-opened the issue whether Shri Chhatriwala had settled in India. The Custodian General took up the position that his earlier view was *obiter dicta* and not binding upon him. No officer can be allowed by Government to indulge in such a self-contradictory attitude and to take shelter under the plea that his previous view was *obiter dicta* and not binding upon him, especially when that view had influenced the Government in taking a decision at the highest level.

Restoration of evacuee property to certain classes of persons had been undertaken as a matter of policy and in some cases Shri Achhru Ram had advised that the Government should do it under Section 16 of Act XXXI of 1950. It was the Government (Executive) which took decision to return property to certain Meos and the fact whether a person fell within the category of restoration or not was verified by executive officers of the Government and not by the Custodians. Similarly, when it was decided by Government to return property of Muslims who had migrated from U. P. to Pakistan between February and May 1950 and had returned according to recognised arrangements, the restoration was done by grant of certificates under Section 16. This has been done on the advice of Shri Achhru Ram, who referring to Section 16, said

“As I read the proviso, the certificate must show that the particular case has been considered by the Government or by any person authorised by it in this behalf and that the Government, or such person has satisfied that the property should be restored”.

The Central Government accordingly authorised the Rehabilitation Secretary of the U.P. Government, who has been issuing certificates after ascertaining whether the applicant has satisfied the conditions of having migrated between the prescribed dates and having returned to India according to the recognised arrangements. If Shri Achhru Ram's contention is accepted, that a certificate under Section 16 is nothing better than a permit which will entitle a person to enter the Custodian's room and present an application for restoration, it is clear that he had been tendering incorrect advice previously. Where property and welfare of hundreds of thousands of its citizens are involved, Government cannot allow any officer to tender advice suited to his changing mood or inclination.

It was not considered necessary to take the case to the Supreme Court or to refer it to the Attorney General because Government was not sitting in judgment over the merits of either of the two orders given by Shri Achhru Ram in Shri Chhatrivala's case.

Shri Achhru Ram wrote to me in his letter of 20th September 1951 that he had accepted the office of Custodian General "in response to touching appeals received from hundreds of his displaced brethren and that the work had been entrusted to me in the interest of million of my displaced brethren" I could not help reminding him that

"I also thought that as Custodian you should have considered yourself as much interested in the persons on whose behalf you have held the property, as according to you, in the interests of millions of others in whom you were interested".

The position of the Custodian General of Evacuee Property is comparable to that of the Custodian of Enemy Property appointed during the war. The title to the property continues to vest in the evacuees, and the custodian holds it on behalf of the evacuees. If, as a matter of policy, the properties are being allotted to displaced persons, that should not be considered by any Custodian to overshadow his main functions.

The Custodian General has a dual capacity. He is the highest authority to decide cases concerning evacuee property and he

advises Government in relation to that property. It is clear that the reasons which influenced the Government in demanding Shri Achhru Ram's resignation are not that he took a particular view in a particular case that did not suit the Government, but as I stated in my first letter of September 19, 1951 that

"In view of this attitude of yours, the Government feel they cannot safely act upon your advice or rely upon the fair interpretation of orders issued on your advice."

The post of the Custodian General of Evacuee Property has been filled temporarily by the appointment thereto of Shri Ganga Nath, Ex-Chief Justice, pending more permanent arrangements.

**Prof. K. K. Bhattacharya:** Will it be circulated to all the Members?

**Mr. Deputy-Speaker:** Let the Statement be laid on the Table now. It will be circulated to all hon. Members and instead of taking the time now, I will allow a half-an-hour discussion over this matter and all the supplementaries may be put then.

**Shri A. P. Jain:** After Six tomorrow?

**Mr. Deputy-Speaker:** On the 11th.

**Shri A. P. Jain:** At what time, Sir?

**Mr. Deputy-Speaker:** At Six o'clock.

**An Hon. Member:** What about tomorrow?

**Mr. Deputy-Speaker:** There is another discussion tomorrow. That matter is now over.

**Shri J. R. Kapoor:** Do I take it that on the 11th supplementaries will be permitted and it will not take the usual form of half-an-hour discussion only?

**Mr. Deputy-Speaker:** During the half-an-hour, all supplementaries may be put, but hon. Members who want to take part in that must give notice in advance.

**Shri Kamath:** On a point of clarification, may I ask whether I should apply under rule 46 for a discussion?

**Mr. Deputy-Speaker:** A formal application is enough. The House will now proceed with the next business.

#### WRITTEN ANSWERS TO QUESTIONS

##### SCARCITY OF WHITE CLOTH

\*1564. **Shri Alexander:** Will the Minister of Commerce and Industry be pleased to refer to the answer given

to starred question No. 477 asked on 23rd August, 1951 and state:

(a) whether Government are aware that there is a very great scarcity of white cloth throughout the State of Travancore-Cochin;

(b) the quantity of white cloth, bleached and unbleached, allotted to Travancore-Cochin and that demanded by the State Government;

(c) whether varieties which are not popular in Travancore-Cochin are allotted to them in spite of their protest; and

(d) the steps, if any, Government propose to take to meet the demand for white cloth in the State?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) The Travancore-Cochin Government had complained of shortage of white cloth in the State in February 1951.

(b) The Travancore-Cochin Government had demanded that their monthly cloth quota should normally include 800 bales of white cloth, bleached and unbleached, in specified varieties. To remove the then prevailing shortage, 2969 bales of such cloth were immediately released to the State in the months of April, May and June 1951. In addition open purchase authorities for white and other cloth were also issued to the nominees of the State for 2940 bales on Bombay and Ahmedabad mills during those months. The State also gets 120 bales of cloth of their choice from the Buckingham and Carnatic Mills and the Mettur Mills in Madras State every month. At present adequate supplies of white cloth are being allocated to the State subject to over all availability of such cloth.

(c) No.

(d) Attention is invited to the answer to part (b) of the question. The State Government has not complained of any shortage of white cloth afterwards.

#### INDIAN SHIPPING

\*1581-A. **Dr. Deshmukh:** Will the Minister of Commerce and Industry be pleased to state the total tonnage of shipping built in India, purchased and otherwise acquired during each of the years 1947-48, 1948-49, 1949-50 and 1950-51?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** The information is being collected and will be laid on the Table of the House.

#### INVITATION TO ACHARYA VINOBA BHAVE BY PLANNING COMMISSION

\*1582. **Shri S. N. Das:** Will the Prime Minister be pleased to state:

(a) whether it is a fact that Acharya Vinoba Bhave has been invited by the Planning Commission for consultation regarding the present Five-year Plan;

(b) If so, when he is to arrive at New Delhi; and

(c) whether it is a fact that it is due to this invitation which has been accepted by him that he has started his walking tour towards Delhi?

**The Parliamentary Secretary to the Prime Minister (Prof. S. N. Mishra):**

(a) to (c). The Planning Commission has not invited Acharya Vinoba Bhave for consultation, but some members of the Planning Commission have expressed a wish to have an opportunity of discussing the five year plan and connected matters with him.

The Prime Minister has invited Acharya Vinoba Bhave to come to Delhi at his convenience for this purpose. It is not known when he is likely to reach New Delhi. His walking tour is not connected with this invitation.

#### WORK FOR NEWLY ARRIVED DISPLACED PERSONS

\*1584. **Dr. M. M. Das:** Will the Minister of Rehabilitation be pleased to state:

(a) whether it is a fact that a scheme for providing work to the newly arrived displaced persons in camps in West Bengal has been drawn up;

(b) if so, the nature of work to be provided;

(c) the system of labour whether it is on a daily wage basis or on contract basis; and

(d) whether the scheme is already being worked out?

**The Minister of State for Rehabilitation (Shri A. P. Jain):** (a) to (d). A decision has been taken that in order to avoid camp life altogether the displaced persons should be taken from reception centres straight to rehabilitation sites where they should be provided temporary accommodation under canvas and made to clear and reclaim land and build houses for their own rehabilitation. They may be kept for a few days in a camp to enable them to be sorted out. Wages will be given against the work done by them and in deserving cases some subsidy may also be given.

The scheme has just started and the details of its implementation have not yet reached Government of India.

#### REGISTRATION OF SALT TRADERS

\*1585. **Shri M. Naik:** (a) Will the Minister of Works, Production and Supply be pleased to state since when Government have decided to withdraw the registration of traders at the Government-owned salt sources?

(b) Is it a fact that the withdrawal of registration is the first step in a programme of decontrol of salt trade in States where control exists over distribution of salt?

(c) To what extent, if any, has this programme so far been implemented?

**The Minister of Works, Production and Supply (Shri Gadgil):** (a) Since the 28th April 1950.

(b) and (c). The registration system was abolished to eliminate unnecessary intermediaries between the Government salt factories and the district nominees. The abolition of this system has no concern with control or decontrol of salt.

#### CLAIMS COMMISSIONERS

\*1586. **Shri Sonavane:** (a) Will the Minister of Rehabilitation be pleased to state how many posts of Claims Commissioners were created in his Ministry and how many were filled up?

(b) How many of the Claims Commissioners recruited are from Scheduled Castes?

(c) What was the number of applicants from the Scheduled Castes and how many were interviewed?

(d) Are any posts still to be filled up and if so, how many?

**The Minister of State for Rehabilitation (Shri A. P. Jain):** (a) Five posts of Claims Commissioners have so far been created and all of them have been filled.

(b) None.

(c) No applications were invited and hence no interviews were held.

(d) At present no post of Claims Commissioner is vacant.

#### TRANSPARENT PAPER

\*1588. **Shri Iyyanni:** (a) Will the Minister of Commerce and Industry be pleased to state what is the total requirements of transparent paper for the country?

(b) How much is produced in India?

(c) What are the factories which produce them?

(d) Do they produce other products like rayons?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) Annual requirements are estimated to be 1,000 to 1,200 tons.

(b) 1950 ... 226 tons

1951 (January to July)

... 179 tons

(c) Messrs. Travancore Rayons Limited, Travancore-Cochin State, is the only firm producing transparent paper.

(d) Yes.

#### TRAINING SCHOOL FOR PRINTING

\*1589. **Shri S. C. Samanta:** (a) Will the Minister of Works, Production and Supply be pleased to state whether there is any departmental Training School for Printing in India, especially in Delhi?

(b) If so, what are the names of places where they are situated and how many persons are trained there annually?

(c) Is there any such Polytechnic Institute in India where Training in Printing is imparted?

(d) Do Government propose to open more Schools to give facilities for training in printing?

**The Minister of Works, Production and Supply (Shri Gadgil):** (a) No.

(b) Does not arise.

(c) Training in Printing is imparted at the following institutions:

(i) Central Polytechnic, Madras.

(ii) Sir Jayachamrajendra Occupational Institute, Bangalore.

(iii) Printing and Technical School, Patna.

(iv) Sir J. J. School of Art, Bombay.

(d) A scheme for training in printing technology has been prepared by the All India Council for Technical Education and it has been forwarded to the State Governments by the Ministry of Education for consideration and implementation. It is proposed to consider the question further after the views of the State Governments have been received.

विदेशों को भेजे गये हाथी

\*१५९०. श्री बी० ऐस० आर्य : (क)

क्या प्रधान मन्त्री यह बतलाने की कृपा करेंगे कि अब तक कितने हाथी उपहार स्वरूप विदेशों को भेजे गये हैं अथवा भेजे जाने वाले हैं ?

(ख) उपहार में भेजे जाने वाले ये हाथी पालतू हैं अथवा जंगली ?

ELEPHANTS SENT ABROAD

[\*1590. **Shri B. S. Arya:** (a) Will the **Prime Minister** be pleased to state the number of elephants sent or proposed to be sent abroad by way of presents?

(b) Are these elephants which are being sent to foreign countries as presents wild or tame?]

**The Parliamentary Secretary to the Prime Minister (Shri Satish Chandra):** (a) The number of elephants sent or proposed to be sent abroad by way of presents is six.

(b) All these elephants are tame or have been tamed.

ADDITIONAL DUTY ON ALUMINIUM

\*1591. **Shri Rathnaswamy:** Will the **Minister of Commerce and Industry** be pleased to state:

(a) whether it is a fact that the announcement regarding the abolition of the additional duty on aluminium circles and reduction in the additional duty on aluminium ingot was delayed upto 12th July, 1951 contrary to the original resolution;

(b) if so, the reasons for this delayed announcement;

(c) whether it is the intention of Government to give retrospective effect; and

(d) whether Government are aware that this delayed announcement by Government has put the importers of aluminium to considerable inconvenience as they had to pay heavy demurrage charges?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) No.

(b) Does not arise

(c) No.

(d) Does not arise.

SUBSIDY TO ALUMINIUM INDUSTRY

\*1592. **Shri Rathnaswamy:** Will the **Minister of Commerce and Industry** be pleased to state:

(a) whether it is a fact that Government have been subsidising certain

Industrial concerns engaged in the indigenous production of aluminium and if so, what is the total subsidy paid to these concerns during the last three years;

(b) whether the subsidy is still continued;

(c) if the answer to part (b) above be in the negative, what are the reasons for stopping this;

(d) whether it is a fact that this subsidy was met by raising additional duty on aluminium sheets and strips;

(e) whether it is a fact that this additional duty was continued although the subsidy was stopped;

(f) whether it is the intention of Government to repay this additional duty collected from the importers to the parties concerned and if not, why not; and

(g) what is the total additional duty collected during the last three years?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) Yes, the total subsidy paid during the years 1949-50 and 1950-51 was Rs. 19,48,910-6.

(b) No.

(c) the prices of imported aluminium steadily rose with the result that the margin between the selling prices of imported and indigenous aluminium was negligible, thus eliminating the basis for subsidy.

(d) It was expected that subsidy would largely be met out of the additional duties.

(e) Yes.

(f) No, in view of my reply to part (d) of the question.

(g) It is not separately recorded.

SYNTHETIC PETROL (PRODUCTION)

\*1593. **Shri Sarangdhar Das:** Will the **Minister of Commerce and Industry** be pleased to refer to the answer given to starred question No. 274 on the 18th September, 1951 regarding synthetic petrol and state:

(a) whether it is a fact that there are two prospective schemes for distilling synthetic petrol from coal, one from Jharia coal and the other from Talchar coal;

(b) whether Messrs. Koppers Company, Pittsburgh, U.S.A. investigated both the above schemes, and if so, which of the two schemes the firm recommends;

(c) whether it is a fact that the Government of Orissa had advanced about six lakhs of rupees to a firm or an individual for preliminary investigations into the possibilities of extracting

petrol from Talchar coal, and if so, the name of the individual or firm, the date on which the advance was made, the exact amount of advance, and the technical qualifications and business standing of the firm or the individual;

(d) whether the Government of Orissa made this advance with the knowledge and prior approval of the Government of India;

(e) whether a complete report was received from the firm or the individual referred to in part (c), and if so, what was the size of the plant recommended, what was the estimated capital investment for the plant, what was the estimated output and the estimated cost of production per gallon of the various spirits and bye-products;

(f) whether Messrs. Koppers investigated into Talchar coal *de novo* or accepted the previous report thereon;

(g) whether the two reports make similar recommendations, or whether they are at variance with each other, and if so, in what respects; and

(h) whether Government propose to lay the two reports in question on the Table of the House?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) Yes.

(b) No. M/s. Koppers investigated only the scheme for the production of synthetic petrol from non-coking coal in Damodar Valley area.

(c) The information is being collected from the Government of Orissa and will be laid on the Table of the House in due course.

(d) No.

(e) A scheme was received from Shri Patnaik of the Kalinga Synthetic Oil Corporation giving details of production of synthetic petrol from Talchar coal, but it would not be fair to the party concerned to make public at this stage those details.

(f) Does not arise in view of reply to part (b) above.

(g) Does not arise.

(h) Not at present.

#### EXCHANGE OF ENCLAVES BETWEEN EAST AND WEST BENGAL

\*1594. **Shri Barman:** (a) Will the Prime Minister be pleased to state whether it is a fact that certain enclaves belonging to the former Cooch Behar State (since merged with West Bengal) are situated within the Rangpur District of East Bengal and *vice versa*?

(b) Is it a fact that maintenance of law and order in the enclaves being difficult, many of the original inhabitants have migrated to the other State and extensive lands are lying fallow?

(c) Was there ever any talk of exchange of these pockets or enclaves between East and West Bengal?

(d) If the answer to part (c) above be in the affirmative, at what stage do the negotiations remain at present?

**The Deputy Minister of External Affairs (Dr. Keskar):** (a) Yes. 130 Cooch Behar enclaves are situated within the Rangpur and Dinajpur Districts of East Bengal and 93 Rangpur and Dinajpur enclaves in Cooch Behar.

(b) No such reports have so far been received by the Government of India. An enquiry has been made from the State Government and any further information when received will be laid on the Table of the House.

(c) Yes. The matter is under correspondence between the governments of West Bengal and East Bengal.

(d) On 21st August 1951, the Government of West Bengal received an *ad-interim* reply from the Government of East Bengal that the matter is under their examination and referred to the Government of Pakistan.

#### AGENCIES FOR SUPPLY OF ARTICLES TO U.S.S.R.

\*1595. **Shri B. K. Das:** (a) Will the Minister of Commerce and Industry be pleased to state what agencies have been employed for the purpose of supply of different articles to U.S.S.R. in exchange for the wheat to be received from that country?

(b) What are the details of the contracts for the supply of such articles?

(c) How have the selections of these agencies been made?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) to (c). It would not be in the public interest to give the information.

#### ARTICLES SUPPLIED TO U.S.S.R.

\*1596. **Shri B. K. Das:** (a) Will the Minister of Commerce and Industry be pleased to state what quantities of jute or jute goods and tea are to be supplied to U.S.S.R. this year in exchange for the wheat to be received from that country?

(b) What quantity of wheat has been received up-to-date and what articles and in what quantities have already been supplied in exchange?

(c) What arrangements have been made for the supply of the articles referred to above?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) to (c). It would not be in the public interest to give the information.

ARTICLES ALLOWED TO BE BROUGHT BY  
TRAVELLERS WITHOUT IMPORT  
LICENCE

\*1597. **Shri Barman:** (a) Will the Minister of Commerce and Industry be pleased to state what are the articles that an Indian national returning home from some overseas country is entitled to bring with him or with his luggage either by air or by sea without import license from India?

(b) What is the weight upto which he is allowed to carry articles without freight either by sea or by air?

(c) What is the currency exchange that he is allowed while going out of the country for the purpose of touring foreign countries?

(d) Are any other restrictions imposed by the Government of India on travels out of India or on travellers from foreign countries to this country?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) The *bona fide* baggage accompanying a passenger (Indian or foreign national) is exempt from the operation of the Import Trade Control Regulations. All articles of baggage which are free from duty are allowed to be imported without licence, subject, however, to specified value limits. A statement showing the articles of *bona fide* baggage and the limits upto and conditions under which they are allowed to be cleared with a licence is laid on the Table of the House. [See Appendix IX, annexure No. 39.]

(b) 66 lbs. by air. There is no uniform rate of free allowance in the case of Shipping companies.

(c) The rate of foreign exchange allowed to persons proceeding abroad varies from country to country.

(d) Travellers entering into or departing from India by air or sea have to comply with Currency, Customs, Health, Immigration and Emigration regulations.

MR. MANILAL GANDHI'S DECISION TO  
COURT ARREST

\*1598. **Shri Rathnaswamy:** Will the Prime Minister be pleased to state:

(a) whether the attention of the Government of India has been drawn to the press news regarding Mr. Manilal

Gandhi's decision to court arrest by defying the racial laws designed to segregate Indians and other coloured people from the European residential areas;

(b) whether Government have any information as to the ways and methods by which Mr. Manilal Gandhi and his followers propose to defy the laws; and

(c) whether Government propose to move in the matter to effect an honourable understanding on points of dispute?

**The Deputy Minister of External Affairs (Dr. Keskar):** (a) Yes.

(b) According to press reports, he has twice defied the Law by sitting on a seat reserved for Europeans at the Durban Railway Station and by going to a Public reading room of the Durban Municipal Library which is not open to non-Europeans. Mr. Gandhi is reported to have said that his action in making use of the Municipal Library was to record his protest against the principle of 'apartheid'.

(c) The Government of India have been consistently opposed to the apartheid policy of the Government of South Africa. On a complaint from the Government of India the matter has been repeatedly discussed in the past by the United Nations General Assembly, and is again expected to come up for discussion in its forthcoming Session.

DEATH OF HAJ PILGRIMS

\*1598-A. **Maulvi Haneef:** (a) Will the Prime Minister be pleased to state whether there is any truth in the Press Report that 3,000 Haj Pilgrims in Mecca lost their lives from sunstroke and heart failure due to the abnormal heat during the Haj season this year?

(b) How many Indian Nationals thus lost their lives there on the said occasion?

**The Parliamentary Secretary to the Prime Minister (Shri Satish Chandra):** (a) It is true that a large number of pilgrims died of sun-stroke, in Mina and Arafat, during the Haj season this year. Though the number of deaths is said to be between 2500 and 3000, the Government of Saudi Arabia's official notification places the figure at 937.

(b) A preliminary report from our Consul-General in Saudi Arabia shows that the Indian pilgrims affected by the heat-wave were not very many. He has been instructed to ascertain their exact number, names and addresses. The information will be published as soon as it is received.

**CONDITIONS OF SERVICE OF MUNICIPAL EMPLOYEES**

\*1599. **Shri A. Joseph:** Will the Minister of Labour be pleased to state:

(a) whether it is a fact that certain part C State Governments enquired into the conditions of service of municipal employees;

(b) the names of the States which conducted this enquiry; and

(c) the names of the States which recommended to the Centre to fix Rs. 30 p.m. as the minimum basic pay of such employees and the other recommendations made by them?

**The Minister of Labour (Shri Jagjivan Ram):** (a) and (b). The administrations of Delhi and Ajmer have set up Committees under the Minimum Wages Act, 1948, to hold enquiries and advise them in the matter of fixing minimum rates of wages for employments under the Local Authorities.

(c) The Administrations are competent to fix minimum wages under the Minimum Wages Act, 1948, without submitting their recommendations to the Centre.

The Administration of Delhi have fixed minimum wages ranging between Rs. 28 and Rs. 65 p.m., rates being different for different municipalities and for different categories of employees

**TANNERY WORKSHOP AT VIJAYAWADA AND ELLORE**

\*1600. **Shri A. Joseph:** (a) Will the Minister of Commerce and Industry be pleased to state whether any representations and memoranda have been received by Government on behalf of tanneries of Vijayawada, Ellore and Guntur in August 1950?

(b) Has any inquiry been made by the Government of India or the State Government to establish a tannery workshop under the scheme of cottage industries at Vijayawada and Ellore?

(c) If so, what are the recommendations, if any, made by Government?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) No such representation was received in August 1950. A representation on behalf of tanners of Vijayawada was however received in March 1950 through the hon. Member and it was passed on to the Government of Madras for necessary action since they were already considering the question of developing such cottage industries under their Firka Development Scheme.

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(b) and (c). The Government of India have not made any enquiry in the matter. Information is, however, being collected from the Government of Madras and will be laid on the Table of the House in due course.

**Dhoties AND Sarees FOR MADRAS**

\*1601. **Shri A. Joseph:** Will the Minister of Commerce and Industry be pleased to state whether any special quota of dhoties and sarees has been allotted to the Madras State?

**The Minister of Commerce and Industry (Shri Mahtab):** No.

**CHECK ON PACKING OF CLOTH FOR EXPORT**

\*1602. **Shri S. N. Sinha:** (a) Will the Minister of Commerce and Industry be pleased to state the agency through which Government check the packing of cloth for export in mills?

(b) Is it a fact that the checking staff reside in the quarters provided by the mills?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) No agency is maintained by the Textile Commissioner to especially check packing of cloth for export in mills.

(b) Does not arise.

**CLOTH (EXPORT)**

\*1603. **Shri S. N. Sinha:** (a) Will the Minister of Commerce and Industry be pleased to state the percentage of mill-made cloth allowed to be packed for export during the months of July 1951 to October 1951?

(b) Has the percentage been increased and if so, what were the reasons therefor?

(c) Did Government take into account the increased demand for cloth during the *Dussehra* while determining the percentage for export?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) and (b). The percentage of mill-made cloth allowed to be packed for export was 10 per cent. of the monthly production in the month of July and 25 per cent. for the months of August to October, 1951, against valid export licences, subject to the condition that no more than 10 per cent. of coarse and medium cloth might be so packed.

This relaxation was mainly intended to enable our country to fulfil certain definite commitments entered into with other countries through bilateral agreements or otherwise. It is not

likely to have any adverse effect on the availability of cloth for internal consumption. The target figure of export of 844 million yards for the current year is also not increased by this relaxation.

(c) Yes.

#### GALVANISED PIPES

**377. Shri Kshudiram Mahata:** Will the Minister of Commerce and Industry be pleased to state:

(a) the quantity of galvanized pipes of all sizes required annually in the country; and

(b) the value of such pipes imported or to be imported in 1951-52?

The Minister of Commerce and Industry (Shri Mahtab): (a) 40,000 tons.

(b) Rs. 5 crores.

#### FACTORIES IN BOMBAY

**378. Dr. Ram Subhag Singh:** (a) Will the Minister of Commerce and Industry be pleased to state the number of

(i) cotton textile;

(ii) silk;

(iii) chemical;

(iv) engineering;

(v) sugar; and

(vi) vegetable oil

factories in Bombay which are at present in operation?

(b) What are their production figures?

(c) What were the numbers of such factories during the years: 1948-49 1949-50 and 1950-51?

(d) What were their production figures during each of the above years?

The Minister of Commerce and Industry (Shri Mahtab): (a) to (d). A Statement is laid on the Table of the House. [See Appendix IX, annexure No. 40.]

#### COAL PRODUCTION

**379. Shri A. C. Guha:** Will the Minister of Works, Production and Supply be pleased to make a statement on the present position of the Government collieries with particular reference to the following points:

(i) raising cost per ton of coal and the average cost in private collieries;

(ii) the total raising of coal during 1949-50 and 1950-51, and during the period from 1st April 1951 up-to-date:

(iii) the target of raising as fixed by the Railway Collieries Enquiry Committee;

(iv) the cost of removing overburden and the average cost in private collieries;

(v) quick removal of accumulated bared coal;

(vi) the surplus labour;

(vii) the shortage of labour engaged on actually cutting and raising coal?

The Minister of Works, Production and Supply (Shri Gadgil): Some of the information is in the process of being collected and a complete statement will be laid on the Table of the House in due course.

#### TRAINING CENTRES

**380. Shri A. C. Guha:** Will the Minister of Labour be pleased to state:

(a) the number of Training Centres conducted by the Government of India with their locations;

(b) the number of trainees so far trained since the 15th August, 1947 and the number under training now;

(c) if any allowance is given, the amount thereof;

(d) the nature of training given;

(e) the number of seats available in all these Centres; and

(f) whether any particular number is reserved for (i) ex-army men; (ii) displaced persons; and (iii) for any other category?

The Minister of Labour (Shri Jagjivan Ram): (a) and (e). A statement is placed on the Table of the House. [See Appendix IX, annexure No. 41.]

(b) 30,630 persons were trained since 15th August 1947, upto the end of August, 1951. There were 9,664 persons undergoing training as on 31st August, 1951.

(c) All trainees under the training scheme for displaced persons and 50 per cent. of the other trainees are given a stipend of Rs. 25 per trainee per month, during the period of training.

(d) Training is imparted in engineering and building trades, as well as in cottage industries.

(f) Yes, 500 seats are reserved for ex-Servicemen and about 2,300 seats for displaced persons. 12½ per cent. of the seats are reserved for Scheduled Caste candidates.

### APPRENTICESHIP TRAINING

381. **Shri A. C. Guba:** Will the Minister of Labour be pleased to state:

(a) the number of centres for apprenticeship training with their locations;

(b) the number of apprentices so far trained since 17th August, 1947;

(c) the number of seats available for such apprenticeship training in each centre;

(d) whether any number is exclusively reserved for (i) ex-army men (ii) displaced persons and (iii) for any other category; and

(e) whether allowance is given to them; and

(f) the nature of training given to them?

**The Minister of Labour (Shri Jagjivan Ram):** (a) and (c). A statement is placed on the Table of the House. [See Appendix IX, annexure No. 42.]

(b) 4,851.

(d) (i) Nil.  
(ii) 1,000.  
(iii) Nil.

(e) Yes.

(f) Training is imparted in production work in a number of engineering and other trades.

### SAMPLE SURVEY

381-A. **Shri Thimmappa Gowda:** (a) Will the Minister of Labour be pleased to state whether the attention of Government has been drawn to the result of the sample survey undertaken by the Ministry of Labour in the selected villages of Mysore State?

(b) If so, what is the average income mentioned in this survey as against the income and expenditure arrived at by the statistical survey department of the Reserve Bank of India?

(c) How does the income of an average agriculturist of Mysore State compare with the income of the agriculturists of Bombay, Bihar and U.P. States, as per this sample survey?

(d) What is the average income per year of an Indian (i) agriculturist, (ii) agriculturist labourer, (iii) of the 4th class i.e. the last class of Railway employees, (iv) last class of Postal employees, and (v) the class IV officers?

**The Minister of Labour (Shri Jagjivan Ram):** (a) The Government of India in the Ministry of Labour conducted in close collaboration with the State Governments, an all-India

enquiry into the conditions of agricultural workers. In so far as Mysore was concerned, the enquiry covered 24 villages, selected on the basis of stratified random sampling. The data collected during the enquiry are being tabulated and necessary action on the reports will be taken, as soon as the results are available.

(b) It is not understood as to whose income is referred to—the agriculturists' or the agricultural workers'. The agricultural labour enquiry will reveal the income of the agricultural workers but, as stated in answer to part (a), the income will be known only after the date collected during the third stage of the enquiry, namely, the Intensive Family Survey, have been analysed and tabulated. There is no Department known as the Statistical Survey Department of the Reserve Bank of India.

(c) No information pertaining to an agriculturist's income in Mysore, Bombay, Bihar or Uttar Pradesh is available.

(d) No information pertaining to the annual income of an average agriculturist is available.

The average annual income of an agricultural worker's family in 8 villages in 8 States in which pilot agricultural labour enquiries were conducted varied from Rs. 322 to Rs. 754.

The annual income of an officer of the fourth class and of a Railway or Postal employee of the last class under the Central Government varies from Rs. 840 to Rs. 900. This excludes house rent and compensatory allowances permissible at certain specified stations. It also does not include overtime payments which some of these employees may earn. This is the income of an individual and not a family.

### RESIDENTIAL ACCOMMODATION TO GOVERNMENT SERVANTS

382. **Prof. S. L. Saksena:** Will the Minister of Works, Production and Supply be pleased to state:

(a) the number of residential quarters built or proposed to be built for the clerical staff drawing pay of (i) less than Rs. 100 and (ii) between Rs. 100 and Rs. 250 during the current financial year;

(b) the number of persons in each of the two categories of the clerical staff referred to in part (a) above, who have been provided with residential accommodation by Government to date as also the number of persons who are still on the waiting list.

(c) on the basis of Government's plans, the probable date by which Government hope to provide residential accommodation to all the persons on the waiting list in the above two categories;

(d) whether it is a fact that most of the employees of category (i) referred to in part (a) above have been provided with residential accommodation by Government while a vast majority of the employees in category (ii) are still without any accommodation;

(e) if the answer to part (c) above be in the affirmative, what steps Government propose to take to provide the employees in category (ii) with accommodation?

**The Minister of Works, Production and Supply (Shri Gadgil):** (a) The information required is as follows:

Quarters whose construction was completed during current financial year:

Category (i)	...	1040
Category (ii)	...	Nil

Quarters proposed to be built during current financial year:

Category (i)	...	500
Category (ii)	...	Nil

(b) Number of persons provided with accommodation up to date in category (i) and (ii) are 2913 and 3604, respectively.

Number of persons still on the waiting lists in these categories are 8138 and 7971, respectively.

(c) According to existing plants of Government, accommodation to 80 per cent. of the anticipated permanent and quasi-permanent strength of Government employees is expected to be provided during the next 8 years subject to availability of funds.

(d) No.

(e) Does not arise.

#### CLOTH AND YARN (EXPORT)

**383. Shri Sidhva:** (a) Will the Minister of Commerce and Industry be pleased to state what quantity of cloth and yarn have been exported since the last notification?

(b) What quantity of medium quality cloth is available in the country?

(c) Is it sufficient to meet the demand?

(d) What is the proportion of production of medium quality cloth as compared with fine, superfine and coarse cloth?

(e) What is the reason for the low production of medium quality cloth and are any steps contemplated to be taken to increase its production?

(f) Which other countries produce cotton of the quality of *Deshi* (India) cotton which is used for manufacture of medium quality of cloth?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) Obviously the hon. Member desires information of export of cloth after the issue of the Press Note dated the 26th May 1951 which outlined Government's export policy and of yarn after the ban. During the period 1st June 1951 to 31st August 1951, we exported 62.8 m. yards of mill-made cloth and 25.8 million yards of handloom cloth. 3085 bales of 400 lbs. each of yarn were exported during the period 1st June, 1951 to 31st August 1951.

(b) During the 7 months January to July 1951, mills in India produced a quantity of 939,831,000 yards of medium cloth for domestic consumption. This works out to an average of 134,261,571 yards per month.

(c) It is not sufficient.

(d) The percentage of production of coarse, medium, fine and superfine cloth to the total production during the period January to July 1951 is 6.9, 50.9, 32.9 and 9.3 respectively.

(e) The main reason for the fall in production of medium category of cloth is the shortage of suitable types of East Indian cotton. Any improvement in the production of medium cloth will, therefore, depend upon the increased availability of suitable types of cotton in future months. The steps have already been taken to increase the production of East Indian types of cotton.

(f) *Deshi* cottons grown in India are generally known in trade circles as 'Bengal and Oomra *deshi* cottons'. Of these the latter is produced only in India while of the former i.e. Bengals, a small quantity is grown in Pakistan. These two varieties are not used in the manufacture of medium but coarse cloth because they are short staple cottons.

#### OIL CANS

**384. Shri Sidhva:** (a) Will the Minister of Commerce and Industry be pleased to state the total number of all kinds of oil cans required in the country per annum?

(b) How much is imported from foreign countries?

(c) How many are manufactured in India?

(d) How many factories exist in India which manufacture oil cans?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) and (b). Government have no information.

(c) 13,982 dozens in 1950 and 4,515 dozens in 1951 (upto 15th May).

(d) So far as Government is aware, there is only one.

#### MOTOR MANUFACTURING INDUSTRY (PROTECTION)

**385. Shri Sidhva:** (a) Will the Minister of Commerce and Industry be pleased to state whether the Motor Manufacturing Industry in Calcutta to which special protection was given has been producing motor parts?

(b) If so, how many such parts are manufactured by this concern and how their quality and price compare with those of imported articles?

(c) Do Government intend to continue the protection?

**The Minister of Commerce and Industry (Shri Mahtab):** (a) Assistance has been given to the Automobile Industry as a whole and not to any particular firm, by rationalisation of import duty on automobile parts and components. Presumably, the hon. Member is referring to Messrs. Hindustan Motors Limited, Calcutta. If so, the firm have equipped themselves for the manufacture of many of the items.

(b) A statement is laid on the Table of the House.

(c) Yes.

#### STATEMENT

*Referred to in reply to part (b) of Un-Starred Question No. 385 for 5th October 1951 by Shri Sidhva.*

Messrs. Hindustan Motors Ltd., Calcutta, are machining and processing complete rear axles including differentials, transmission gear and gear box, water pumps, crank shafts, brake drums, manifolds and clutch housing for Hindustan 14 cars. They have also commenced manufacture of the following items from imported forgings and castings—

Fly wheels; Valves; Timing gears and sprocket wheels; Cylinder blocks and heads; Cam shafts and connecting rods.

2. The quality of the products manufactured by the firm compare favourably with imported parts as they are  
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in accordance with the specifications laid down by their foreign Associates. Production has been established recently and it is therefore, not possible to arrive at cost figures.

#### INDIANS ALLOWED TO SETTLE DOWN IN CANADA

**385-A. Dr. Ram Subhag Singh:** Will the Prime Minister be pleased to state:

(a) whether the Canadian Government have permitted any Indians who are at present resident in Canada to settle down in Canada permanently under the Indian Immigrations Agreements arrived at between the Governments of India and Canada; and

(b) if so, what is the number?

**The Deputy Minister of external Affairs (Dr. Keskar):** (a) It was proposed by the Government of Canada to use the quota for the year 1951 of 150 Indian immigrants mostly for this purpose.

(b) The information has been called for.

#### WOOL (EXPORT)

**386. Dr. Ram Subhag Singh:** Will the Minister of Commerce and Industry be pleased to state:

(a) the total quantity of wool exported from India during the years, 1949-50 and 1950-51; and

(b) the names of the countries to which India exports wool?

**The Deputy Minister of Commerce and Industry (Shri Karmarkar):** (a) (Financial year)  
1949-50: 27,362,771 lbs.  
1950-51: 25,370,951 lbs.

(b) Belgium, Australia, France, Italy, Burma, the United Kingdom and the United States of America.

#### OIL REFINERY IN INDIA

**387. Dr. Ram Subhag Singh:** Will the Minister of Works, Production and Supply be pleased to refer to the answer given to starred question No. 1034 asked on the 14th September 1951 and state whether it is a fact that Government have given an assurance to the Oil Companies operating in India that, should an oil refinery be established by them in India, Government would not consider the question of nationalizing it or otherwise disturbing its ownership or management within 30 years of its commencing operations?

**The Minister of Works, Production and Supply (Shri Gadgil):** The feasibility of giving such an assurance was discussed in 1949 but no firm decision has yet been taken since no concrete proposal has been made so far by any interested party.

**DETENTION OF SHRI GOPAL DAS**

**388. Shri Rathnaswamy:** Will the Prime Minister be pleased to state:

(a) whether it is a fact that the Government of Pakistan has rejected India's representation requesting the release and transfer of Shri Gopaldas, retired Police Officer, now in Pakistan custody, to India;

(b) whether it is true that his present health condition is serious; and

(c) whether it is true that the members of the staff of the Indian High Commissioner were not permitted to visit Mr. Gopaldas?

**The Prime Minister (Shri Jawaharlal Nehru):** (a) An informal request for his release has been made to the West Punjab Government. We have not received their answer yet.

(b) Yes.

(c) No; the Deputy High Commissioner and his staff of Lahore are allowed to see Mr. Gopaldas in hospital in the presence of police officers.



सत्यमेव जयते

# PARLIAMENTARY DEBATES

Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

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VOLUME XVI, 1951

(24th September, 1951 to 16th October, 1951)

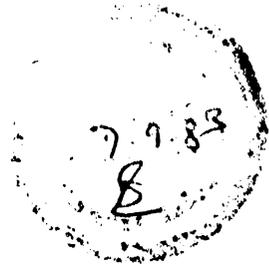
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Fourth Session

of the

PARLIAMENT OF INDIA

1951



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## CORRIGENDA

to

the Parliamentary Debates (Part II—Other than Questions and Answers),  
Fourth Session 1951.

Volume XVI,—

1. No. 1, dated the 24th September, 1951,—

(i) Col. 3193, line 10 for "Act, 1151" read "Act, 1951"

2. No. 2, dated the 25th September, 1951,—

(i) Col. 3260, line 18 for "set" read "sat".

3. No. 3, dated the 26th September, 1951,—

(i) صفحہ ۳۳۱۵ پہلی لائن میں "دے مونا آزاد" کی جگہ "دے مولانا آزاد" لکھیے

(ii) भाग ३४१६, पंक्ति १३ में "सायलें" के स्थान पर "आगत" पढ़ें ।

4. No. 4, dated the 27th September, 1951,—

(i) Col. 3902, line 19 from bottom for "rent for occupation of houses" read  
SHORT NOTICE QUESTION".

(ii) भाग ३४९०, पंक्ति १३ में "ट्रस प्रांक्मेटी" के स्थान पर "ग्रान्ट्स कमेटी" पढ़ें

5. No. 6, dated the 29th September, 1951,—

(i) Col. 3902, line 19 from bottom for "rent for occupation of houses" read  
"damages for the occupation".

No. 7, dated the 1st October, 1951,—

(i) Col. 3952, line 16 omit "a".

7. No. 8, dated the 3rd October, 1951,—

(i) Col. 4074 for existing line 19 read "it has been made out that pre-censor-";  
after existing line 40 insert "permanent period to the hands of the"  
and delete line 43.

8. No. 9, dated the 4th October, 1951,—

(i) Col. 4153 last line, for "L.P.C." read "I.P.C."

(ii) Col. 4188, for existing line 18 from bottom read "cular case by that  
experience and I".

9. No. 10, dated the 5th October, 1951,—

(i) भाग ४२८७, अन्तिम पंक्ति में "बेस्त्रियम" को "बेस्त्रियम" पढ़ें ।

(ii) Col. 4346, line 4 from bottom after "years" insert "ago".

10. No. 11, dated the 6th October, 1951,—

(i) Col. 4418, line 26 for "stituted" read "substituted".

(ii) Col. 4460 after line 27 insert "ages etc."

(iii) Col. 4523, line 19 from bottom for "Cognizillibity" read "Cognizability"

(iv) Col. 4524, line 11 for "Cognizillibity" read "Cognizability".

No. 12, dated the 11th October, 1951,—

(i) Col. 4694, for existing lines 7-9 read "given to Shri Achru Ram's case...  
Shri Kamath: I am sorry it is a very ignorant imputation.....".

(ii) Col. 4721 for existing line 35 read "number of tractors to be produced"

12. No. 13, dated the 12th October, 1951,—

(i) Col. 4743 after line 5 insert "(No Questions—Part I not Published)" as 1 line.

(ii) Col. 4844 in line 32 for "Khwaja Inait Ullah: May I point" read "Shri Jhumjhumwala. I just want".

13. No. 14, dated the 15th October, 1951,—

(i) Col. 4913, line 13 from bottom for "(Sidhva)" read "(Shri Sidhva)".

(ii) भाग ४९५६, पंक्ति १२ में "पीछे" के स्थान पर "पीते" पढ़ें।

(iii) Col. 4984 for existing lines 10 and 11 from bottom read "A person shall be disqualified for being chosen as and for being".

14. No. 15, dated the 16th October, 1951,—

(i) Col. 5093, for existing line 34 read "for the industrial development of our country".

(ii) Col. 5128 in line 5 from bottom after "to" insert "give to".

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**THE  
PARLIAMENTARY DEBATES**

(Part II—Proceedings other than Questions and Answers.)

**OFFICIAL REPORT**

4273

4274

**PARLIAMENT OF INDIA**

Friday, 5th October, 1951

*The House met at Nine of the Clock.*

[MR. DEPUTY-SPEAKER *in the Chair*]

**QUESTIONS AND ANSWERS**

(See Part I)

10-10 A.M.

**RESIGNATION OF SHRI KALA  
VENKATARAO**

**Mr. Deputy-Speaker:** I have to inform hon. Members that Shri Kala Venkatarao has resigned his seat in Parliament with effect from the 26th September, 1951.

**LEAVE OF ABSENCE FROM THE  
HOUSE**

**Mr. Deputy-Speaker:** Before the House proceed with any other business, I would like to inform hon. Members that Shri Yudhishthir Mishra has requested for leave of absence under article 101(4) of the Constitution till the end of the current session on account of his son's illness.

Is it the pleasure of the House to grant him leave?

Leave was granted.

**Mr. Deputy-Speaker:** I would likewise inform hon. Members that Shri Kuladhar Chaliha has requested for leave of absence under article 101(4) of the Constitution till the end of the current session, as he is unwell.

Is it the pleasure of the House to grant him leave?

Leave was granted.

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**PAPER LAID ON THE TABLE**

STATEMENT SHOWING THE AMOUNT  
SPENT BY GOVERNMENT ON CONSTRUCTION  
OF OFFICES, RESIDENTIAL AND  
OTHER ACCOMMODATION.

**The Deputy Minister of Works, Production and Supply (Shri Buragohain):** I beg to lay on the Table a copy of the statement showing the amount spent by Government on construction of offices, residential and other accommodation during the period from 15th August, 1947 to 15th August, 1950, promised in reply to Starred Question No. 166 on the 10th August, 1951. [See Appendix IX, annexure No. 43.]

**ELECTION TO COMMITTEE**

CENTRAL ADVISORY BOARD OF  
ARCHAEOLOGY

مدرسٹر آف ایجوکیشن (مولانا آزاد) :

جواب میں تحریر کرتا ہوں کہ ایک

ایسے طریقے سے جو آئریبل اسپیکر قرار

دیدیں یہ ہاؤس چار ممبروں کے چناؤ

کی کارروائی انجام دے۔ یہ چار ممبروں

سہمتمول ایڈوائزری بورڈ آف آرکیالوجی

میں ممبروں کی حیثیت سے کام کریں گے۔

[The Minister of Education (Maulana Azad): I beg to move:

"That this House do proceed to elect, in such manner as the hon. the Speaker may direct, four members to serve on the Central Advisory Board of Archaeology constituted by the Government of India."

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

"That this House do proceed to elect, in such manner as the hon.

[Mr. Deputy-Speaker]

the Speaker may direct, four members to serve on the Central Advisory Board of Archaeology constituted by the Government of India".

The motion was adopted.

**Mr. Deputy-Speaker:** I have to inform hon. Members that for the purpose of election by means of the single transferable vote of four members to the Central Advisory Board of Archaeology the programme of dates will be as follows:

1. Nominations to be filled in the Parliamentary Notice Office upto 6 P.M. today.

2. Election, if necessary, will be held on Saturday, the 8th October, in the Assistant Secretary's room No. 21 in the Parliament House between the hours of 10-30 A.M. and 1 P.M.

**PRESS (INCITEMENT TO CRIME)  
BILL—contd.**

**Clause 4.—(Power to demand security from Presses).**

**Mr. Deputy-Speaker:** Hon. Members who want to move their amendments will kindly indicate the amendments which they wish to move.

**Shri Bhatt (Bombay):** I beg to move:

(i) After "such amount", insert "a sum not exceeding ten thousand rupees".

(ii) For the Proviso, substitute the following:

"Provided that no security will be demanded unless a warning was recorded by the sessions judge against the keeper of the press in question."

(iii) In part (a) after "jurisdiction is" insert the following:

"despite being warned three times in writing by the competent authority,".

(iv) After "such amount" insert "not exceeding five thousand rupees".

(v) After the Proviso, insert the following further Proviso:

"Provided further that no action against the keeper of the Press will be taken if the author or publisher of objectionable matter is known."

**Shri Meeran (Madras):** I beg to move:

(i) For all the words beginning with the words "Whenever upon complaint" and ending with the words "a sessions judge is satisfied" substitute the following:

"Whenever a Sessions Judge, upon a complaint made to him in writing by a competent authority, is satisfied after an enquiry made in the manner hereinafter provided."

(ii) For "it" occurring in line 2, substitute "him".

(iii) In the Proviso, for "record such warning" occurring at the end, substitute the following:

"administer such a warning to the keeper of the press".

**Shri Lakshmanan (Travancore-Cochin):** I beg to move:

In the Proviso, for "record", substitute "issue".

**Al-Haj M. A. Haque (West Bengal):** I beg to move:

After "such amount", insert "not exceeding two thousand rupees".

**Pandit Thakur Das Bhargava (Punjab):** I beg to move:

(i) After "such amount" insert "not exceeding two thousand rupees".

(ii) After part (b), insert the following new part:

"(c) that the keeper of the press knew the nature of the objectionable matter printed or published,".

**Prof. K. K. Bhattacharya (Uttar Pradesh):** I beg to move:

(i) For "sessions judge" wherever they occur, substitute "a High Court judge".

(ii) After "security" where it occurs for the second time, insert the following:

"of any amount not exceeding five hundred rupees for the second offence, provided that no security be demanded for the first offence in which case warning by Court shall be sufficient".

**Shri R. Velayudhan (Travancore-Cochin):** I beg to move:

(i) Omit part (a).

(ii) For "twenty one days" substitute "three months".

**Shri A. C. Guha (West Bengal):** Sir, I beg to move:

After "such amount" insert "not exceeding three thousand rupees".

**Shri M. P. Mishra (Bihar):** I beg to move:

After "such amount as the court may think fit" insert "provided it does not exceed in any case ten thousand rupees".

**Mr. Deputy-Speaker:** These amendments are deemed to have been moved. Now discussion both on the clause and the amendments will start.

**Shri M. P. Mishra:** Sir, my amendment relates to the fixation of a ceiling for the security. This is a point...

**Shri B. K. P. Sinha (Bihar):** Since this is a very important clause may I request that not only the Members who have tabled amendments but also other hon. Members may be given an opportunity to participate in the discussion.

**Mr. Deputy-Speaker:** First of all, let us understand what the movers want to say.

**Shri Sidhya (Madhya Pradesh):** Every clause is important.

**Shri M. P. Mishra:** My amendment relates to the fixation of a ceiling in relation to the demand of security from the newspapers. This question has been discussed very widely in this House and outside. In the previous Act, the Press (Emergency Powers) Act of 1931, there was a ceiling. In the first instance, the press was asked to deposit a security which would range from Rs. 500 to 3,000 and if the offence was again committed, the security would range from Rs. 1,000 to 10,000. In this case, the Government has not thought it fit to fix any ceiling. We have failed to understand the reasons behind. It has been claimed by the Government that this Bill, on the whole, has been an improvement on the previous Act, the Press (Emergency Powers) Act of 1931. As a matter of fact, I would point out that it was one of the repressive measures used by the former alien Government against freedom of the Press in India. As a matter of fact, we would like that in the place of demand of security, some other penal measure was adopted, because the press as a whole has taken the matter of security as one of humiliation. It is just like sections 107, 108 and 109 of the Penal Code in relation to a person of bad livelihood. Even if, in times of emergency, Government thought it fit and proper to demand security from

the offending press, there must be a ceiling so that the security may not be such as to prohibit the publication of the offending papers altogether. The object of this measure is just to prevent the publication of objectionable matter; it is not the object, I think, of the Government to prevent publication of the newspapers altogether. As such, if there was a ceiling, it would be within the reasonable means of a newspaper to pay and the court would be in a position to ask security within that ceiling. I may say that in another clause of this Bill, there is a provision that at the time of making a complaint, the Government has the right to indicate the amount of security it would like the paper to pay. It is not known what amount the Government would indicate. Once it was proved before the Sessions Judge that the matter published was really objectionable, I think, the Sessions Judge, though it is in his power to fix any amount he chooses, he will be inclined to accept the amount indicated by the Government in the complaint. So, I think that it is just and proper, particularly in the spirit in which the hon. Home Minister has been piloting the Bill since yesterday, that there should be a limit fixed. In my amendment, I have indicated that it should not exceed Rs. 10,000 in any case.

**Shri R. Velayudhan:** Sir, in my amendment, I have said that part (a) of clause 4 be omitted. In this part of the clause, the items coming are newspapers, news-sheets, books or other documents containing objectionable matter. We have passed clause 3 and now we have come to clause 4, when we have to consider the extension and coverage of these matters in clause 3.

I have already expressed my fundamental objection to this Bill as a whole. At the same time, when I come to these details, I am very sorry to see that all literature coming under the sun in India will be coming under objectionable matter, if the judiciary or the executive is very strict to impose penalties on the newspapers or publishing houses or even on presses. India is a country today which is very backward in education. Our literacy is only about eight per cent., as we all know. Therefore...

**Mr. Deputy-Speaker:** We are not entering into a general discussion or a discussion even of clause 3. That clause has been accepted by the House with modifications. We are now only on a matter of procedure and penalties.

**Shri R. Velayudhan:** I have to bring out certain points which have not been so far.....

**Mr. Deputy-Speaker:** Hon. Members are also following what is going on in the House. The hon. Member may restrict his remarks to the amendments and the clause under discussion.

**Shri R. Velayudhan:** I will not repeat anything that has been said before.

**Mr. Deputy-Speaker:** So far, the hon. Member has only repeated.

**Shri R. Velayudhan:** What I wanted to bring to the notice of the House is that if we curtail the freedom of papers, news-sheets, books or other documents, we are curtailing in fact the progress of education in the country. Take for example what I said just before. Only eight per cent. of our people are literate. At this time, this Bill comes as a stumbling block in the way of progress of education in this country. After all, we are only in the beginning stages and we have not yet introduced compulsory education in the country. News-sheets or books or newspapers are being circulated only among a very limited number of people in this country. When compared with 40 crores of people in this sub-continent, how many people can read books?

**Mr. Deputy-Speaker:** The hon. Member is again going into the general principles which we have disposed of. The only question is whether security ought to be demanded or not and whether it should be by proper proceedings before a Sessions Judge. Hon. Members may have objection to this one course or the other. Why should he once again start a general discussion, of objectionable matter, and desirability or otherwise of all that.

**An Hon. Member:** Only to waste time.

**Mr. Deputy-Speaker:** I do not think the hon. Member has anything more to say.

**Shri R. Velayudhan:** If you are curtailing my speech, I shall sit down.

**Mr. Deputy-Speaker:** It is not a question of curtailing. I have said once, twice.

**Shri R. Velayudhan:** I am not repeating anything.

**Mr. Deputy-Speaker:** It is not a question of repeating. Whatever is

relevant to this particular clause is admissible. A general discussion that security measures impair freedom of speech, that only eight per cent. of the people are literate, and so on is not relevant. All these points have already been urged. Objectionable matter has been referred to in clause 3 which has already been passed by the House. We are now on the power to demand security from the press in certain cases. It is open to the hon. Member to say that there should be no security, but some other punishment may be prescribed or some other preventive step taken.

**Shri R. Velayudhan:** Then, I need not speak at all.

**Mr. Deputy-Speaker:** If that is his intention, the hon. Member need not speak. Pandit Thakur Das Bhargava.

**Shri R. Velayudhan:** Am I debarred from speaking?

**Mr. Deputy-Speaker:** The hon. Member is debarred from speaking irrelevant matter in this House.

**Shri R. Velayudhan:** I have never said anything irrelevant. I protest against the word irrelevant.

**Mr. Deputy-Speaker:** It is for me to decide whether it is relevant or not. There is no aspersion on the hon. Member. Whatever is not relevant to the clause under discussion is not relevant.

**Shri R. Velayudhan:** It is an aspersion.

**The Minister of Home Affairs (Shri Rajagopalachari):** Before any other hon. Member intervenes, Sir, with your permission, the hon. Member Mr. Velayudhan was entering into a general discussion and you, very rightly pointed out that he was entering into the general discussion. I want one information about the amendment moved by him. He says that part (a) of clause 4 be omitted. Is that what he presses? He may as well tell me, so that I may understand him.

**Shri R. Velayudhan:** That is my amendment.

**Shri Rajagopalachari:** In fact, I think Mr. Velayudhan has made a very good proposal from the point of view that if part (a) is omitted, full discretion is given to the sessions judge to see that there are sufficient grounds for demanding security. With a slight modification, I think this amendment would be very good.

**Mr. Deputy-Speaker:** The hon. Member is walking into the parlour.

**Shri Rajagopalachari:** I do not want a bad atmosphere. I think he is satisfied.

**Shri R. Velayudhan:** I want the whole clause to be deleted if the hon. Minister is willing.

**Mr. Deputy-Speaker:** If the hon. Members devote some time to this, they will find many points to urge on each clause. They need not go over once again what has been said already.

**Shri R. Velayudhan:** You did not give me a chance to speak in the general discussion. You said I can speak when the clauses are taken up. When the clauses are taken, you repeat the same thing.

**Mr. Deputy-Speaker:** I have allowed him to speak on clause 3.

**Shri R. Velayudhan:** In the Third Reading also, you will say that I have spoken before.

**Pandit Thakur Das Bhargava:** Sir, I have given notice of two amendments in regard to the fixation of a ceiling and the other in regard to proof of the fact that the person proceeded against knew the nature of the objectionable matter. In regard to the clause, I have to make certain observations. The present clause is designed to bring in a new method. The keeper of a press...

**Shri Rajagopalachari:** May I know which are the hon. Member's amendments?

**Pandit Thakur Das Bhargava:** I am speaking on my amendments.

Before proceeding with my general observations on this clause, in which as you were pleased to observe there are many points to speak on, I would concentrate upon the amendments of which I have given notice. In the first place I want a ceiling of Rs. 2,000 to be fixed. Secondly I want that in this clause a safeguard may be provided that an innocent person is not enmeshed in the provisions of this clause. Yesterday, our hon. Home Minister got passed an 'explanation' to the effect that the intention of the keeper of the press will not be of any value in considering if the matter is objectionable matter or not. And I also supported him to the extent of saying that so far as the keeper of the press is concerned, the question of intention is not very material. But even then, I submitted, as I am submitting now for your consideration that though the question of intention of the keeper of the press who is in charge of the dissemination of the objectionable matter

is not so material, at the same time, his knowledge of the nature of the objectionable matter is absolutely essential. We have heard too much yesterday that no person shall be proceeded against and no penalty should be imposed on a man unless and until he has *mens rea*. *Mens rea* does not consist of intention alone; but it is essential that before a person is asked to give security, it should be proved against him that he knew that he had committed something wrong. If a person responsible for the mechanical production of a thing should even without knowing that he was doing something wrong, should do wrong, then he ought not to be penalised. Therefore, it is absolutely necessary that it must be proved against the keeper of the press that he knew of the nature of the objectionable matter. Otherwise it would mean that a person would be deemed guilty without knowing anything wrong happening in his brain or in his mind.

Now, with your permission, Sir, I will illustrate my point. If a person has in his possession stolen property, without his knowing that he has stolen property with him, then that person is not guilty. In joke a friend may put some stolen article into my pocket and I may not know that I have with me stolen property and I should not be deemed guilty of an offence. Similarly, if anything is published or printed in the name of a person who does not know as a matter of fact, the document that is being published or printed in his name is of an objectionable nature, then that person ought not to be proceeded against and he is not guilty. I do not think that he should be credited with the same intention as the writer of the document.

Moreover, if a person who is the keeper of a press is absent from India, suppose he has gone to England after putting someone else in charge of his press, to carry on the business in his absence, and something is being published here. What happens? He does not know what is being printed. So if the proof of knowledge against him is not provided for, then I think he can be proceeded against and be bound down. Therefore I submit that it is absolutely necessary that it should be provided in the Statute that he must know what is the nature of the objectionable matter that is being printed.

I know that the words "sufficient grounds" are there in this clause. Now, in the first place the prosecution shall have to prove that the press was being used for the purpose of printing and publishing objectionable matter.

[Pandit Thakur Das Bhargava]

But that will not be enough. Yesterday, Rajaji was pleased to point out that two things have been provided for. The using of the press for printing objectionable matter, is not sufficient, according to him also. And so he used the omnibus words—sufficient grounds for demanding security. Rajaji almost jokingly asked Mr. Velayudhan to move his amendment so that the amendment may look ludicrous. But may I submit, Sir, that these words—"sufficient grounds" are much too vague? They are so vague that a session judge may do his duty or may not do his duty. A session judge may do his duty only if you ask him to exercise his mind in a particular way; otherwise he will not be acting rightly. In every offence the ingredients of the offence must be given. No judge can roam about in every case. Unless those ingredients are given, no judge can hold a person guilty. These words "sufficient grounds" I submit, do not give sufficient indication to the judge.

May I call your attention, Sir, to the corresponding provision of the Criminal Procedure Code? In section 117 there it is stated:

"When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with, or in execution of, a summons or warrant, issued under section 114, the Magistrate shall proceed to enquire into the truth of the information upon which action has been taken,..."

In this case, what is the information? The information is that the press has been used for printing objectionable matter. That is not difficult of proof. Further sub-clause (3) of section 117 reads thus:

"Pending the completion of the inquiry under sub-section (1) the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquility or the commission of any offence or for the public safety, etc. etc."

....may demand a security. Here the real charge against the man is that he has knowingly done the thing. I do not think anyone in the House will maintain that if a person unknowingly allows a certain thing to be published, even in that contingency he should be proceeded against.

These words "sufficient grounds" are much too vague, and they may mean

something or nothing. I want that so far as the real thing is concerned, the proof of the knowledge of the keeper of the press must be specifically put down here. Even that may not be sufficient. There may be a variety of circumstances which are of such a nature that the judge may be able to give relief to the keeper of the press, but I am not going into the details of the circumstances. But I believe this proof of knowledge is a very essential matter and unless and until it is put down here the judge's attention may not be called to this aspect of the question. If the matter is very objectionable, there will be the tendency for the judge to bind him down without taking the proof that the person knew that the nature of the objectionable matter was such as should have made the keeper of the press to withhold his activity. I am anxious that these words I have suggested should be inserted.

As regards the ceiling, we all know that in the previous Act such a ceiling was fixed. Under the corresponding provision—section 112, the judge tells the man that he should deposit so much amount. When he goes into the question again he can reduce the amount. But in the first instance the amount must be named by the competent authority and subsequently the judge may find out what should be the proper amount. Therefore I think this amount should be fixed and I suggest a ceiling of Rs. 2,000 as a fair amount. This is necessary so that the man may know beforehand what is in store for him if he behaves in a particular manner. In every section you have the punishment stated as so much fine, or so much imprisonment and so on. I know that in some cases the amount of the fine is not given. Usually a first or second class magistrate tries the case and his jurisdiction is known and then the limit of amount of fine is known. Though a security is not in the nature of a fine, yet a ceiling may be fixed. There are judges and judges and in my practice in the profession for 42 years I have come across hundreds of them. I know how some of them can behave and hence I want the ceiling to be fixed so that some limit to their jurisdiction may be given. In some cases the sessions judge may be a over-zealous and patriotic man and he may think that the accused should be asked to deposit a security of one lakh of rupees. Therefore I want a specific ceiling to be fixed.

Now I want to speak about the clause in general and also about the

taking of security in the manner proposed. I have submitted in my note of dissent that I am not convinced of the utility of the proposed provision. I would rather prefer the old sections 99 and 108 of the Cr. P.C. being used rather than this provision. I will not dilate on it, for as a matter of fact the scope of objectionable matter has been extended a great deal and it has been accepted by the House. I will not object but at the same time my own view is that the previous sections 99 and 108 of the Cr. P.C. were more than ample. Under section 99 it was the local government which issued an order. The old government had been curtailing the liberty of the people so far as their rights are concerned. But now we have our own representative popular Ministries, which can be expected to exercise more restraint in the use of these powers.

Formerly as soon as an order was passed, the person proceeded against had the advantage of taking the matter to the High Court, where a bench of three judges went into the question. When you consider the nature of the proceedings it is not a trial in which you require a jury or very much of evidence. It will be more a question of interpretation as to whether the matter came under the meaning of objectionable matter or not. The most cultivated brains of the High Court judges would have done much more justice in such cases than a sessions judge. Instead of a competent authority as at present, the local government would have been there. In the place of one sessions judge, and High Court judge as now envisaged in the Bill the present provision of three High Court judges is much more satisfactory I think in the general interest as well as in the interest of the accused the previous provision was better. I am not enamoured of a jury or a sessions court. We want expedition and vigorous action. We do not want that the trials should be protracted day after day and witnesses examined and the objectionable matter to be disseminated by the mere fact that there is a protracted trial. In a matter like this we want secrecy and more vigorous action so that the objectionable matter may not be disseminated.

The hon. Home Minister was pleased to give the press people an assurance that he would provide them with a jury and a sessions trial and true to his word he has provided them. Perhaps he thinks that he has given them something which they desired or he thinks it is more desirable. But so far as the general interest of the country is concerned I lay at his feet

that it would have been better served by keeping the present provisions.

Even in the proceedings under section 108 of the Cr. P.C. the procedure was more simple. Now they are more cumbersome and the remedies are worse than they were before. Considering it from every standpoint, from the point of view of the remedies provided, from the point of view of the protracted nature of the trial and from the point of view of the general interest these provisions which are sought to be substituted are not good. I do not know what is the reaction of my friends of the press. So far as I am concerned, considering the general interest of the people at large, I am of the view that the present section 99 contain provisions better than the ones we find in the Bill.

I know that it is too late to contend that the previous provisions should be restored. Rajaji has gone too far and I do not think he could possibly agree to my suggestion to restore the old provisions, because he has given undertakings to the press. But I would request him to consider the two amendments I have suggested, namely (i) that the ceiling be fixed and (ii) that in order to bring home the charge to the person proceeded against the question of proof of knowledge should be put in the provision. Even a murderer gets a fair trial and every person in the dock has a right to be tried fairly. Without *mens rea* or the knowledge of the person we will not be acting fairly towards him.

So far as the question of imposing restrictions is concerned, we are by this provision putting more restrictions on the press and the liberty of the individual.

श्री भट्ट : माननीय उपाध्यक्षजी, मैं इस बात की तरफ गृह मंत्री जी का ध्यान दिलाना चाहता हूँ कि एक आपत्तिजनक सामग्री के लिए हम कितने आदमियों को सजा दे रहे हैं। जो सम्पादक है या प्रकाशक है उससे हम जमानत मांग सकते हैं, दूसरे मुख्यालय के मालिक से भी हम सिक्कूरिटी मांग रहे हैं.....

Shri Rajagopalachari: In a very early case in which I appeared four people were hanged for one man being killed.

श्री भट्ट : मैं अपनी मूल बात पर आना चाहता हूँ और वह बात यह है कि कोई भी मुद्रणालय आप ले लीजिये बड़ा हो या छोटा, इस में सभी आ जाते हैं चाहे वहाँ समाचारपत्र छपता हो या कोई हस्त पत्र छपा हो या कोई किताब छपी हो या कोई और चीज छपी हो। तो एक छोटे से ट्रेडिङ मशीन वाले मुद्रणालय से ले कर बड़े से बड़ा रोटरी मशीन वाला मुद्रणालय तक इस में आ जाते हैं। अब हम यह चाहते हैं कि मुद्रणालय का मालिक या उस का मनेजर ऐसे काबिल हों कि जो कुछ चीज उनके यहाँ से छप कर आती है उस को वह अच्छी तरह से छान बीन कर सके। वह क्रायदे की इस बारीकी को समझ सके कि इस में फलानी चीज आपत्तिजनक है, और फलानी चीज छपी जा सकती है और फलानी चीज नहीं छपी जा सकती है। इतनी उनकी काबलियत होनी चाहिये। तो हम मुद्रणालय के मालिक से यह अपेक्षा रखते हैं कि वह इतना गुणवान आदमी होगा कि जो इन चीजों का फर्क कर सकेगा। जो आदमी अपनी रोटी पैदा करने के लिए अपना मुद्रणालय स्थापित करता है और उसे चलाता है उस आदमी से इतनी बड़ी अपेक्षा करना नामुमकिन बात है और बेजा बात है। अलग अलग जगहों के कायदों को मैं इस समय पढ़कर नहीं सुनना चाहता। लेकिन मैं ने पिछली मर्तबा आप का ध्यान दिलाया था कि बेल्जियम में खास तौर से यह कानून है कि :

"When the author is known and domiciled in Belgium, the publisher, printer and distributor may not be sued."

इसी तरह से डैनमार्क में भी है। मैं आप से यह कहना चाहता हूँ कि बेल्जियम

के एक न्यायालय के एक निर्णय में यह लिखा गया है कि मुद्रणालय के मालिक के ऊपर कितनी जिम्मेदारियाँ हैं। उस में दिया है कि :

"It is the professional duty of the printer to examine all printed matter coming from his press and to stop its publication if it does not bear his or the author's name. The printer being personally responsible for the appearance of a publication not bearing the name of the author or the publisher, may not plead ignorance of the fact."

यह एक निर्णय है। दूसरा इसी तरह का निर्णय स्वीडन के सन् १९५९ के प्रेस ऐक्ट में है। उस में उन्होंने दिया है :

"A publisher with respect to non-periodical printed matter means that person who has taken charge of the printing and publication of the writing of another person."

आर्टिकल ८ में दिया है :

"If there was no publisher, or if his identity cannot be established, the printer shall be liable in place of the publisher."

इस तरह अलग अलग देशों के विधानों में और कानूनों में अलग अलग चीज साफ तौर से यह बतला रही है कि अगर सताधीशों को उस के प्रकाशक और सम्पादक की जानकारी हो जाय तो फिर मुद्रणालय के मालिकों के ऊपर कोई जिम्मेदारी नहीं हो सकती। वह अपनी रोटी कमाने के लिए एक काम कर रहा है और अपना काम करने के बाद पैसा लेता है, इसके सिवा और कुछ नहीं। लेकिन हम ने अपने प्रेस एंड रजिस्ट्रेशन आफ बुक्स ऐक्ट (Press and Registration of Books Act) के मुशफिक मुद्रणालय के ऊपर जिम्मेदारी डाली है और बड़े यह है कि जो कुछ चीज उसके छापेखाने में छपे उस के नीचे उस का खुद का नाम



[ श्री भट्ट ]

"It seems to be a very innocent book. It is "Mother". All right, you can take this book."

एक किताब थी भगवद्गीता। पर वह अंग्रेजी में थी। उन्होंने कहा कि "What is this?" तो मैं ने कहा कि "This is the discourse between Lord Shri Krishna and Arjuna." "But what is the subject matter in it?" "It is regarding war." "Oh, then I cannot allow it." यह था उन को किताबों का ज्ञान। मैं नासिक सेंट्रल जेल की बात कर रहा हूँ जहाँ कि बड़े आदमी सुपरिटेण्डेंट थे, और वहाँ के जेलर जो बाद में गांधी जी के भी सुपरिटेण्डेंट रहे थे : पर्णकुटी में। उन से मैं ने कहा कि मुझे आश्रम भजनावली दी जाय क्योंकि मैं रोज इस का पाठ करता हूँ। इस में कोई बात नहीं है। पर उन्होंने कहा कि इस आश्रम भजनावली का नाम तो गांधी से जुड़ा हुआ है और यह उन के आश्रम की भजनावली है। यह मैं नहीं दे सकता। और कोई दूसरी किताब आप चाहें तो ले लीजिये। मैं ने तो कहा कि मैं तो इस को पढ़े बिना रोटी नहीं खाऊंगा। तब शाम को करीबन पांच छः घंटे के बाद उन्होंने जब किताब को देखा होगा फिर पढ़ पढ़ा कर देखा होगा कि उसमें कोई सत्याग्रह का भजन तो नहीं है, तब वह ६ घंटों के बाद, वह सुपरिटेण्डेंट साहब आये और वह किताब उन्होंने मुझे दी।

مولانا آزاد : کیا اب بھی آپ کو تو  
ہے کہ ایسی کتاب روک دی جائیگی -

श्री भट्ट : शिक्षा मंत्री जी का मैं कई  
मिसालें बताऊंगा। जैसे अभी एक सबाल  
शीर्षी का है। तो जब मैं रोटी का सबाल

ले कर अपना एक हस्तपत्र छपवाने जाऊंगा तो कई मुद्रणालय वाले कहेंगे कि यह रोटी का सबाल है, आजकल रोटी की चर्चा करें तो कहीं हम कानून की बंदिश में न आ जायं। इसलिये वह हिचकिचायेंगे। यह जो बात मौलाना साहब ने कही है तो मौलाना साहब इस का अमल करने वाले नहीं हैं। यह काम हमारे गृह मंत्री जी के हाथ में भी नहीं रहने वाला है। यह चीज रहने वाली है उस के हाथ में जिस को आप काम्पीटेंट आथोरिटी (competent authority) कहते हो। वह काम्पीटेंट आथोरिटी क्या करेगा, कब कौन सी बात कहेगा, इस का चित्र मैं आप के सामने खींचना नहीं चाहता हूँ। थोड़े दिनों के बाद अगर आप चाहेंगे तो वह चित्र मैं खींच कर बताऊंगा। अब आपने यह सबाल उठाया है तो मैं आप को बताता हूँ कि परसों ही यहां दिल्ली नगर के कोर्ट में ही, मिस्टर पी० ऐन० भरोत की कोर्ट में, एक मामला पेश हुआ था। वह मामला यह था कि १९५० के 'निगारिस्तान' में कोई कहानी छपी थी और उस कहानी में आब-सैनिटी (obscenity) थी, ऐसी बोझ थी जो दुनिया के सामने, हमारे समाज के सामने नहीं रखनी चाहिये थी। इसलिये उस कहानी के लेखक के ऊपर और उस के मुद्रणालय वाले के ऊपर दोनों के ऊपर केस चला। अब मजिस्ट्रेट ने कहानी के लेखक को जबरन कहा कि इस प्रकार की कहानी इस रीति से नहीं छपवानी चाहिये और कहा :

"A perusal of the passages will show that the writer has intentionally used words and phrases that would convey to the minds of the readers the impression of passion and sexual desire."

लेकिन मुद्रणालय के मालिक के बारे में उन्होंने

क्या कहा यह में पढ़ कर सुनाना चाहता हूँ जिस को उन्होंने बरी किया :

"The prosecution cited two articles in the issue of the periodical dated September 18, 1950, and said that they were calculated to kindle erotic desires in young minds. The accused pleaded not guilty."

माफ कीजिये। फिर आगे यह है :

The magistrate acquitted Sardari Lal, the proprietor of the press, holding that he was not expected to read, proofs or judge the nature of the article.

The Minister of Works, Production and Supply (Shri Gadgil): Not a correct approach.

श्री भट्ट : अब यह हो सकता है कि जो मिनिस्टर बन कर बैठें वह किसी भी मैजिस्ट्रेट के लिये, किसी भी जज के लिये, कुछ भी कहें। हर एक अपना अपना ब्याल जाहिर कर सकता है। लेकिन एक तरफ हम कहने हैं कि हम सेशन जज को अधिकार देते हैं और उन पर ऐतबार रखना चाहिये। मैं भी कहता हूँ कि और कोई चारा ही नहीं है सिवाय इसके कि न्यायालय पर ऐतबार रखना चाहिये। लेकिन जब ऐसी बात आती है तो हमारे एक मंत्री महाशय यह कह दें कि "नाट ए करेक्ट अप्रोच" (not a correct approach) इसके मानी क्या हैं। जो लिखने वाला है उस को सजा दे दी, जो साहित्य है वह ज्वल कर लिया और आयन्दा वह नहीं छपेगा, इस के आगे और आप क्या करेंगे, आप को और क्या करना है। आप क्या इस प्रकार से अपनी हुकूमत को लादते रहना ही चाहते हो कि जिस से लोग सब डरते रहें और कुछ भी न छापें।

बाबू रामनारायण सिंह . यही तो मतलब है।

श्री भट्ट : यह सरकार की मंशा नहीं है और न कभी ही सकती है, यह मैं

मानता हूँ। लेकिन मालनीय गृह मंत्री जी और उन के सहयोगी मंत्री जी जो बिराजे हैं, उन से मैं यह अपील करता हूँ कि आप क्या करना चाहते हो। अगर मुद्रणालय का मालिक अपनी छपी चीज में सम्पादक का नाम न दे या लेखक का नाम न दे तो जरूर आप मुद्रणालय के मालिक को जेर कीजिये, जैसी सजा देनी हो दीजिये, इस में कोई शक नहीं है और न मैं इस में कोई स्काबट डालना चाहता हूँ। लेकिन जब कि एक छपी हुई चीज है, जिस पर कि सम्पादक का नाम है, प्रकाशक का नाम है, तो उस को आप गिरफ्तार कर सकते हो, उस से जमानत मांग सकते हो, उस को जितनी चाहें सजा दे सकते हो। फिर उस के बाद मुद्रणालय के मालिक ने क्या कसूर किया है, इस की तरफ मैं आप का ध्यान दिलाना चाहता हूँ।

इसलिये मैं ने यह अर्ज किया कि अगर गृह मंत्री जी को ठीक लगे तो इस सारी चीज को इस में से निकाल दिया जाय और प्रेस एंड रजिस्ट्रेशन ऐक्ट में जो कोई और परिवर्तन करना हो, जो कोई और पाबन्दियां लगानी हों वह लगायें। आप को और पाबन्दियां भी क्या लगानी हैं? मैं कहना चाहता हूँ कि जैसे बैलिजियम में कानून में यह कहा है :

If the author is known, then the printer or the distributor is not responsible. He cannot be sued.

तो आप यहां पर भी इसी तरह से छापेखाने वाले पर जो जो पाबन्दी लगाना हो वह लगा दीजिये। आपने यह कहा है कि छापेखाने वाला फौरन ही अपनी चीज अफसर के पास भेज देता है। तो इस में जो बुक (Book) की ब्याख्या लिखी है उस में आप ने पैम्फलेट

[श्री भट्ट]

(pamphlet) शब्द ही लिखा है। आप का यहाँ जो शब्द है लीफ़्लेट (Leaflet), उस को भी आप जोड़ दीजिये, मुझे इस में कोई आपत्ति नहीं है। उन सब शब्दों को जैसे जोड़ना चाहें आप जोड़ दीजिये और कह दीजिये कि फौरन ही उस चीज़ की नक़ल जहाँ आप चाहें वहाँ पेश कर दी जाय। फिर आप को जो करना है वह तो ग़लत सामग्री को रोकना है, ग़लत चीज़ को रोकना है। तो मैं समझता हूँ कि गृह मंत्री जी इस पर सोच विचार करेंगे और ठीक समझें तो इस सारी चीज़ को यहाँ से निकाल दें।

अगर यह चीज़ उन को पसन्द नहीं है तो मैंने दूसरे रास्ते भी दिखाये हैं और सुझाव दिये हैं। मैंने एक सुझाव यह दिया है कि ऐसे मुद्रणालय वाले को आप चेतावनी दीजिये, एक मर्तबा नहीं, दो मर्तबा, तीन मर्तबा चेतावनी दीजिये। और इस रीति से चेतावनी देने के बाद भी अगर वह अपनी आदत को न छोड़े और इसी तरह ग़लत काम करता रहे तो आप जरूर उससे जितनी ज़मानत लेनी हो लीजिये। एक तो यह रास्ता है। दूसरा रास्ता यह है कि उससे पहली मर्तबा कुछ ज़मानत न लीजिये, पहली मर्तबा आप केवल चेतावनी दीजिये, जैसा कि इस में सिलैक्ट कमेटी ने सुझाव भी दिया है कि अगर सेशन जज को ठीक लगे तो चेतावनी दे। तो वह चेतावनी दे यह नहीं, बल्कि वह चेतावनी ही पहली मर्तबा देगा यह होना चाहिये।

مولانا آزاد : وہ جج سے کہہ سکتا ہے۔

श्री भट्ट : दे सकता है, यह नहीं बल्कि उस को चेतावनी ही देनी चाहिये।

फिर जब वह दूसरी मर्तबा आये तब ज़मानत ली जाय और तीसरी मर्तबा ज्यादा ज़मानत ली जाय, या ज़मानत अबत की जाय, जो कुछ करना हो वो आप करें।

Shri Sidhva: Provision is there. The provision is quite clear.

श्री भट्ट : जो बात मैं अर्ज कर रहा हूँ वह यह है। मैं भी थोड़ी बहुत अंग्रेजी समझता हूँ और इसलिये मैंने भी वह देखा है और मैं जानता हूँ कि उस में यह प्रावधान है।

Shri Sidhva: You cannot tell the judge "You shall do it".

Babu Ramnarayan Singh: Why not?

Shri Goenka: You can.

श्री भट्ट : कानून में ऐसी चीज़ नहीं रख सकते कि पहली दफा चेतावनी देनी चाहिये और चेतावनी के बाद गुनाह करे तो उस से ज़मानत मांगी जाय, इस तरह का कानून नहीं बन सकता है, यह मैं नहीं मानता। मैं नहीं समझता कि इस में कोई बड़ी आपत्ति है। शायद सिधवा जी उस के बारे में बोलेंगे तो समझावेंगे।

तो मैं यह अर्ज कर रहा हूँ कि पहले चेतावनी और फिर उस के बाद ज़मानत ली जाय। और वह ज़मानत भी एक मीयाव में रहे। आप ने यह जरूर रखा है कि सेशन जज इस पर सोचेंगा और वह छोटे से कम ज़मानत लेगा और बड़ों से ज्यादा ज़मानत लेगा। लेकिन फिर भी उसकी कोई हद रखें। मैंने सुझाया है कि बहुत ज्यादा करनी हो तो १० हजार से ज्यादा नहीं होनी चाहिये, लेकिन ५ हजार तक की हद रखें तो ज्यादा अच्छा होगा, क्योंकि दूसरी मर्तबा भी आप उस से ज़मानत मांग सकते हैं।

यह सुझाव मैंने आप के सामने रखे हैं। मैं समझता हूँ कि गृह मंत्रीजी इस बिल को जितना भी अच्छा बना सकते हैं उतना अच्छा बनाने की कोशिश कर रहे हैं। तो मेरे इन सुझावों को भी स्वीकार कर लेंगे तो क्यादा अच्छा होगा और मैं आशा करता हूँ कि वह इस बिल को क्यादा अच्छा बनाने की कोशिश करेंगे। इतने सुझाव रखते हुए मैं आशा करता हूँ कि इन सुझावों में से कुछ सुझाव जरूर गृह मंत्री जी को मान्य होंगे।

(English translation of the above speech)

**Shri Bhatt:** Sir, I want to draw the attention of hon. the Minister of Home Affairs to the number of people who will be punished for an objectionable matter. From the editor or publisher a security can be demanded; at the same time a security can be demanded from the owner of the press as well.

**Shri Rajagopalachari:** In a very early case in which I appeared four people were hanged for one man being killed.

**Shri Bhatt:** I will revert to my main point i.e., the word 'Press' includes all presses, whether big or small, whether printing newspapers or handbills, books or anything else. From a small press, with a treadle machine to a big one with a Rotary—all are included in the term press. What we seem to desire is that the owner of the press or its manager should be able to scrutinise everything that is printed there should be able to go into and have the finesse about regulations in order to find out which matter is objectionable and hence should not be printed and which is not. We expect from the owner of a press to be able to discriminate between a matter which is objectionable and that which is not. It is not fair, nor is it possible to expect this from a person who runs a press only to earn his living. I do not want to quote from regulations of different countries; last time I had drawn the attention of the House to the law in Belgium which states:

"When the author is known and domiciled in Belgium, the publisher, printer and distributor may not be sued."

The same is the state of affairs in Denmark. A decision of a Belgian Court

has detailed the responsibilities of the owner of a press. It said:

"It is the professional duty of the printer to examine all printed matter coming from his press and to stop its publication if it does not bear his or the author's name. The printer being personally responsible for the appearance of a publication not bearing the name of the author or the publisher, may not plead ignorance of the fact." This is one judgment. There is a similar regulation contained in the Press Act of 1949 of Sweden. It says:

"A publisher with respect to non-periodical printed matter means that person who has taken charge of the printing and publication of the writing of another person."

Article 8 says:

"If there was no publisher, or if his identity cannot be established, the printer shall be liable in place of the publisher."

Laws of different countries specifically state that once the authorities come to know the names of the publisher and the editor, the owner of the press is absolved of the responsibility for the matter concerned printed in his press. The owner of a press runs it to earn his living, he gets money for whatever he prints and there the matter ends. But according to our Press and Registration of Books Act, the printer is responsible for printing the name of the publisher, the place and his own name on whatever is printed in his press. This enables the Government to know the name of the publisher and the press where it has been printed, so that if the Government want to take any action against the printer they can do so easily. Secondly the press has also been obliged to send a copy of every book printed by it to the Government. This keeps the Government in touch with everything that is printed. Such are the restrictions we have placed on the press. If you so desire place some more, but please do not place any such restriction which may lead to the owner of a press losing his livelihood. Suppose a person goes to a printer to get something printed which contains criticism or disapprobation of policy. The printer will ask him to bring a certificate to the effect that the matter is not objectionable. This will create a dual difficulty. First for the layman, who is not an editor or publisher of a paper and wants to get a handbill printed because the printer would say that he would not print the handbill unless it is accompanied by a certificate to the effect that it contained nothing objectionable. Secondly, the

[Shri Bhatt]

owner of the press will be afraid and won't print such things. Let me quote a few instances relevant to this context. It was in 1930 when I was jailed along with others for taking part in the Salt *Satyagraha*. I was in the Thana jail at that time—I am trying to show that the owner of a press knows as little about book as a jail superintendent. The authorities were very strict at that time and had decided that we should get religious books only and that too the Holy Quran, the Holy Bible or the Gita and no other book was allowed. But we could not pass the day with these books alone and we including such great men as the late Shri Jamna Lal Bajaj, Kishori Lal Mashruwala asked the Jail Superintendent to allow us those books also which were not political and contained nothing against the Government. But the Jail Superintendent told us that all other books were strictly forbidden. Some of our books were lying in the office of the jail. I picked up one of them, it was "Mother" by Gorkey and asked the Superintendent to give us that book saying that it was about the love of a mother and that he (the Superintendent) must also have had a great respect for his mother. The Superintendent—he was an Irishman, said: "It seems to be a very innocent book. It is "Mother". All right, you can take this book." There was a copy of Gita in English. He asked me what that was about to which I replied: "This is the discourse between Lord Shri Krishna and Arjuna." "But what is the subject matter in it?" "It is regarding war". "Oh, then I cannot allow it." So this was what he knew about books. That happened in Nasik Jail, whose Superintendent was an important person and whose jailor afterwards was Gandhiji's Superintendent in Parnakuti. I asked him to supply me a copy of *Ashram Bhajanavali* (Book of Hymns) because I read it every day, and said that it contained nothing objectionable. But he said that because that book of hymns was connected with Gandhiji he could not allow it and asked me to take some other book. At that I announced my intention not to take meals till I got the *Bhajanawali*. The Superintendent must have studied the book and found no hymn relating to *Satyagraha*, because after six hours he came to me and gave me the book.

**The Minister of Education (Maulana Azad):** Are you afraid such books will be banned even now?

**Shri Bhatt:** I shall quote a few examples for the benefit of the hon. Minister of Education. Take, for in-

stance, the question of livelihood. Suppose I take a handbill connected with this to a printer. He will hesitate because he will think that the subject matter of the handbill can come under the "Dont's" of the law. The hon. Maulana Azad has indicated his opinion on the subject just now but he is not to decide whether a certain matter is objectionable nor is the hon. Minister of Home Affairs to do so for that matter. This thing is to be decided by what is called the "competent authority". I do not want to draw a picture of what that competent authority would do, I can try my hand at it some days later, if the House allows me. Let me recount what happened in a case in a local court, that of Mr. P. N. Bhanot. The case was connected with a story published in '*Nigaristan*' of 1950, which contained obscenity, a thing which ought not to have been put before the public. Both the writer and the printer were prosecuted for that. The magistrate held that the said story ought not to have been written by the writer and should not have been printed. The magistrate wrote:

"A perusal of the passages will show that the writer has intentionally used words and phrases that would convey to the minds of the readers the impression of passion and sexual desire." etc. etc.

But the proprietor of the press was acquitted. The magistrate said about him:

"The prosecution cited two articles in the issue of the periodical dated September 18, 1950, and said that they were calculated to kindle erotic desires in young minds. The accused pleaded not guilty."

And further—The magistrate acquitted Sardari Lal, the proprietor of the press, holding that he was not expected to read proofs or judge the nature of the article.

**The Minister of Works, Production and Supply (Shri Gadgil):** Not a correct approach.

**Shri Bhatt:** The hon. Ministers can say whatever they like about a judge or a magistrate. Everybody can express his opinion. We have given certain powers to the session judges and say that we ought to trust them. I concur in this because there is no alternative to this course. But an hon. Minister says—"Not a correct approach". I don't know what it means. There is provision for punishing the

writer and proscribing what he has written; that means that literature won't be printed again. What more do you want? Do you want to ride roughshod over the people, so that they may get frightened and don't print anything?

**Babu Ramnarayan Singh (Bihar):** Exactly that is what they mean.

**Shri Bhatt:** I do not think that such is the intention of the Government, nor can it be. I want to ask the hon. Minister of Home Affairs and his colleagues, as to what they actually want. If the proprietor of a press does not mention the name of the editor or the writer in whatever he prints, haul him up, punish him in whatever manner you like, I won't hinder you. But when the names of the editor and the publisher appear on what is printed and you can apprehend them and demand security, why should the proprietor be dragged in? This is to which I wish to draw your attention.

I appeal to the hon. Minister of Home Affairs to delete, if he has no objection, the provision relating to punishing the printer, and amend the Press and Registration Act and put whatever restrictions he likes... I don't think you want to put any restrictions. As is provided in the Belgian law:

If the author is known, then the printer or the distributor is not responsible. He cannot be sued.

You may also put restrictions on the printers on the same lines. You have said that the printer should send a copy each of his printed matter to the authority concerned. The definition of 'Book' also contains the word pamphlet. You may also add the word leaflet: I have no objection to that, and provide that a copy of everything printed by the press may be delivered whenever you direct. After all, the purpose of the Government is to provide against the publishing of objectionable matter. I hope the hon. Minister of Home Affairs will think over this and delete the whole provision, if he thinks fit.

If this is not acceptable there are other ways out as suggested by me. One of my suggestions is that the printer publishing objectionable literature should be warned not once, but twice or thrice. If the warnings do not have any effect upon him and he persists in his course, demand whatever security the Government may like. Another alternative is that for the first time a printer publishes an objectionable matter, no security should be demanded from him; he should only be given a warning. As

suggested by the Select Committee, the Sessions Judge may give the warning if he deems fit. But the provision should be that the Sessions Judge may be empowered to issue a warning on the first occasion.

**Maulana Azad:** That the judge can do.

**Shri Bhatt:** That is true that he can but he should issue a warning for the first time. If a printer prints some objectionable matter for the second time, a security should be demanded and if he does it for the third time more security should be demanded or the security previously demanded should be forfeited.

**Shri Sidhva:** The provision is there. The provision is quite clear.

**Shri Bhatt:** That is what I was saying. I also know something of the English language and I know that the provision is there.

**Shri Sidhva:** You cannot tell the judge "You shall do it".

**Babu Ramnarayan Singh:** Why not?

**Shri Goenka (Madras):** You can.

**Shri Bhatt:** I don't think that provision for warning for the first time and demanding a security for the second is not possible in this legislation. I can't see what the objection is to such a provision. May be Shri Sidhva will throw light on this question.

My point is that security should be demanded from a printer only if he commits the offence for the second time; for the first he should be let off with a warning. And there should be a limit to that security. The provision is that the Sessions Judge will consider this question and will demand a bigger security from the proprietor of a big press than from that of a small one. Even in that case there should be some limit. My suggestion is that the ceiling for such a security should not be more than Rs. 10,000; it would be better if the ceiling fixed is Rs. 5,000 only, because security can be demanded for the second time also.

So these are my suggestions. I know that the hon. Minister of Home Affairs is endeavouring to make the legislation as good as he can. It will be very good if he accepts my suggestions. I hope he will make this measure better and will accept at least some of my suggestions.

**Shri A. C. Guha:** Sir, my amendment seeks to put a ceiling on the

[Shri A. C. Guha]

amount of security to be demanded. Sir, the demand of security is by itself not a very commendable action for a democratic government to take. As far as I have been able to gather, I think hardly in any democratic country is there a provision for demanding security from the press. But when the hon. the Home Minister is insistent that there should be a provision for demanding security from the offending printing houses, or from the offending newspapers, I think it is only fair that there should be a ceiling fixed. Even the law which the British Government had passed, the Press (Emergency Powers) Act, 1931 contains a provision for ceiling. On the first occasion when the press has been found to be guilty of anything it has been provided that the security should not exceed Rs. 3,000. In the same way it should not be less than Rs. 500. My amendment also suggests that there should be a ceiling of Rs. 3,000 for the first occasion.

Sir, it has also been suggested in this Bill that the competent authority would suggest to the Sessions Judge what the amount of security to be demanded should be. That, of course, will come in a later provision. But I should like to say that leaving these things to the mercy of the competent authority and of the Sessions Judge is not a commendable procedure. One previous speaker has cited cases how competent authorities and responsible officers have been interpreting objectionable matters. Sir, from my long experience I have found that even Fellowship Lectures on Vedanta Philosophy published by the Calcutta University was held to be objectionable matter by one of the officers. "Bhagavat Gita" was very frequently found to be objectionable by competent authorities and officers. Even an innocent book, which is perhaps the best seller in Bengal "Bhakti Jog" written by Aswini Kumar Datta whose name, I think, is not unknown to the Home Minister, was found to be objectionable for us while we were in jail.

Sir, by leaving everything to the discretion of these responsible officers, we will be giving too much authority to them. So it is very necessary that a definite amount should be fixed.

Then comes the question of apportioning of responsibility between the printer and the publisher. Under the Press Registration Act everything published in the press must bear the printer's name and everything that is meant for sale or distribution must bear the printer's or publisher's name. I know there have been many cases of

violations of this rule. I know that some political parties have been publishing leaflets and literature without the name of the printer or publisher. But I can say with confidence that in not a single case have the Government machinery been able to detect the guilty presses and printing houses or the publishers. How this provision, which is now sought to be incorporated will be able to help the Government in these matters, I fail to understand.

So my humble submission is that Government should not leave everything to the discretion of its officers but should fix some maximum, as even the alien Government have done. They do not go beyond Rs. 3,000 as the maximum security to be demanded on the first occasion when a printing press is found to be guilty. My humble submission to the hon. the Home Minister is that he should agree to my suggestion of putting such a ceiling. With these words I commend my amendment to the House.

**Shri Meeran:** Sir, I have tabled three amendments which are mostly of a verbal character to bring out clearly the meaning of the original provision. So, I do not think I need make any long speech with reference to them.

**Shri Rajagopalachari:** I am going to accept them.

**Shri Meeran:** Anyhow I take this opportunity of meeting some of the points raised by my friend, Shri Gokulbhai Bhatt, and in doing so I will not take more than a few minutes.

His point is that when the author of the objectionable matter is known the keeper of the press need not be punished. I may say that this runs counter to the fundamental principle of this very Bill. After all the Bill is intended to punish the press which produces *en masse* lakhs and lakhs of copies. It is not intended to punish one single individual. This very objection raised by many speakers already has been adequately answered by the hon. the Home Minister. The main theme is their contention is that the ordinary law of the land is there to punish the wrong doer; why do you punish the press? Supposing I write an article. I should be punished, not the keeper of the press. The fundamental object of the Bill is to see that the press which produces *en masse* at a time lakhs and lakhs of copies and disseminates objectionable matter far and wide should be prevented from doing so. If you agree to it that is one thing. If you do not, the fact has to be realised that this House has already accepted this fundamental principle of the Bill when it referred it to the Select Committee. It

is no use bringing forward a clause which will nullify the whole object or underlying principle of the Bill. Therefore that objection in my opinion does not hold good.

Mr. Bhatt further went on to ask: "Why should you punish the ordinary keeper of the press and prevent him from earning his daily bread". If the author is known, he should be punished. I may tell my hon. friend Mr. Bhatt that if I commit a cognizable offence, I run the risk of being arrested by anybody, let alone the competent authority. Even the meanest citizen in the land, my neighbour, may arrest me without a warrant on the ground that I committed a cognizable offence.

**Pandit Thakur Das Bhargava:** May I know under what provision of law a person can arrest an offender, unless offence is committed in his presence?

**Shri Meeran:** It is on the assumption that he sees me. I am only giving an illustration to show that there are risks like that.

**Shri Goenka:** But he stands the penalty for his own doing. But here there is no such penalty for wrongdoing.

**Shri Meeran:** For that you should take separate action.

I am only trying to show that merely because there is a chance of the keeper of a press being deprived of his livelihood, you cannot say that the competent authority should not be clothed with the power to punish a man or printing objectionable matter. That is exactly what I want to say. These risks are inevitable in the nature of things. Therefore we should not say that there should not be such a provision, from a legalistic aspect of it. But if you totally disagree with the Bill, that there should be no such Bill at all, that is absolutely a different matter. Having committed ourselves, this House having committed to it, and having passed the previous clauses I do not think that merely because the author is known we should not punish the keeper of the press.

**Shri Goenka:** Sir, I will not take any time of the House at all because these matters have been discussed in the House and, as you have appreciated, since yesterday I am taking no time of the House. But this is an important matter and I would like to say a few words. I am not going into the question of intention and all other matters which we have discussed and which the House, rightly or wrongly, has accepted. But here is a matter which

I would like to submit for the consideration of the hon. the Home Minister. The Home Minister has repeatedly told us "It is the Judge who will decide the matter, then why worry?" May I ask in all respect: Here is the Indian Penal Code. Do you provide capital punishment for all offences? Why not provide capital punishment for all offences under the Indian Penal Code and say that the Judge will decide it according to the offence concerned? Here is a case in which an unlimited amount of security can be demanded by a Judge. This is the provision in the Bill. You give him authority to demand an unlimited amount of security. In the 1931 Act it was Rs. 1,000 in the first instance (with a minimum of Rs. 500), Rs. 3,000 in the second instance, and finally not more than Rs. 10,000 under any circumstances. That is what the 1931 Act provided. Now the Home Minister tells us that because judiciary is provided, the judiciary will use its discretion properly and no limit is necessary. My objection to this clause is this. I am not going into any other matter, in regard to intention or any other thing. But it has been established beyond all reasonable doubt in this House that an editor who is responsible for publishing a particular matter can, under your very law, get scot-free and be declared innocent or not guilty by a court of law. But under this provision the printer and publisher will be declared guilty for the very same offence. Here is a case where an innocent person can be prosecuted and persecuted, because powers have been given in the hands of the authority to set the law in motion. That being the case and knowing the very many circumstances under which certain things get into the paper, for instance supposing there was a strike of the compositors in a particular press—as it happened some time ago in a press—and they put in a small paragraph in that paper, that paragraph would have closed down the paper for good though neither the printer nor the publisher nor anybody is responsible for it. Do you suggest that for an inadvertent mistake getting into the paper an innocent person has to pay the penalty of closing down the press or that we should provide unlimited security to be demanded from the press? What is this lawless law, I ask. I honestly feel that this is a most atrocious thing that any Government can attempt to do, namely to give capital sentence for innocent persons.

After all, here is the law and according to the offences we have to provide penalties. Here are the offences. Yesterday the offence was "anything involving violence". Now, assault is an ordinary offence which provides

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only for three months punishment under section 351 of the Indian Penal Code. For that a capital punishment of demanding unlimited security and closing down the press is provided. Yesterday the hon. Shri Satyanarayan Sinha laid on the Table of the House a statement as to how in the Centrally administered area 44 securities were demanded from various papers...

**Shri Rajagopalachari:** When?

**Shri Goenka:** Between 15th August, 1948 up-to-date.

**Shri Rajagopalachari:** Not up-to-date.

**Shri Goenka:** Whatever may be the date, the fact is that from 15th August, 1948 forty-four securities were demanded from various newspapers, seven were withdrawn, thirty-seven were effective, and out of the thirty-seven eighteen newspapers ceased publication. Here is a case in which a demand on thirty-seven papers had been made of which eighteen had to close down, at a time when the demand of security could not be more than Rs. 10,000 under any circumstances.

**Shri Rajagopalachari:** On the advice of the Advisory Committee.

**Shri Goenka:** I am not concerned with the Advisory Committee. You say it was done on the advice of the Advisory Committee. But may I say that without the advice of the Advisory Committee you have closed down papers in spite of the fact that you gave an undertaking to the Advisory Committee that you would take no action without consulting it? I can give you instances of these cases here and now

**Pandit Thakur Das Bhargava:** What is the opinion of the Advisory Committee on this point, may I know?

**Shri Goenka:** So far as the Advisory Committee is concerned, their advice is taken when it suits the Government and is rejected when it does not suit the Government. They ask for the Committee's advice when it suits the Government and do not ask for its advice when it does not suit them.

Yesterday from the Press Laws Enquiry Committee Report various passages were quoted by the Home Minister, and that the Information Minister also began quoting some passages. But they only quoted what suited them. They did not quote in regard to security. What does it say in regard to security?

**Shri Rajagopalachari:** Is he continuing yesterday's debate?

**Shri Goenka:** I am not continuing yesterday's debate. I am only saying how atrocious these two clauses, 3 and 4, are. Clause 3 has been accepted by the House. I am not going back on what the House has decided already. But I have got a right to.....

**Shri Sidhva:** Are there not improvements in it now?

**Shri Goenka:** The fact will remain that it is wrong. It is wrong to convict an innocent person. Anyway I am not going into that question. But I am going into the penalty imposed on that innocent person. And what is the penalty? It is an unlimited amount of penalty. What will be the security demanded? What will happen when the security is forfeited or when the press is forfeited? I have tried to prove to the satisfaction of the Home Minister, I suppose, that the printer and publisher can be an innocent person under certain circumstances and that that innocent person is also made guilty under the provisions of this Bill. So far so good, since you have accepted the provisions of clause 3, and I have nothing to submit. But when it comes to the matter of penalty to be imposed, should you not have a limitation upon the penalty imposed? Do you not in your own Indian Penal Code provide various penalties for various offences and also penalties like warning, this, that and the other? It should not be from warning to unlimited security. I will not entrust any Judge with that power. Certain Judges can be perverse. I am not suggesting all Judges are perverse. I am not suggesting all Judges can go wrong. But why do we have these various penalties provided for various offences? It is in order to have a check and a counter-check, a balance and a counter-balance. You see that his powers are limited and that he does not exercise powers beyond that limit. Why did the Legislature provide only six months punishment for contempt of court, although under the previous Act the provision was that unless he apologized he would remain in prison for his life? Why was it done? Because justice demanded that this House should lay down the limit. Was it not a case in which the Punjab High Court wanted a particular person to remain in prison until and unless he apologized and submits to, whatever you may call it, the Judges of the High Court? For that the Legislature sat down and said "This is atrocious, we shall not allow it, we shall fix six months limit by which any person can be purged out of the offence by going out of prison". Why was it done? Because they felt that justice will demand

that a particular limit should be laid upon the penalty which is imposed upon any person for a grievous offence like contempt of court. I ask the hon. Minister to show whether there is a grievous offence or any heinous offence? There are offences and offences under this Act and if the hon. Minister is giving capital punishment and unlimited security, I beg to submit that he is only dealing with property and not dealing with anything else. Although there is imprisonment, the ordinary law takes its own course under clause 32. I say still the ordinary law will have its own say. I again report for the consideration of the hon. Minister from what yard-stick is he imposing this penalty and placing this unlimited power in the hands of the judges. After all the judges' rights should be controlled. I do think that it is an unreasonable restriction under the terms of our Constitution on the freedom of speech and expression. It is all right for the hon. Minister to say that these words would come under the 1902 Act as amended by the Constitution. It is very easy to say that, but it is qualified by the word 'reasonable'. It does not matter to me but I am certain that no court particularly our Supreme Court, in which we have abundant faith could say that this Statute imposes reasonable restrictions when you are going to put a penalty against an innocent person. I have absolutely no doubt on that matter but since it has been prohibited and very rightly prohibited, we cannot go into the merits of those cases whether a matter will be really constitutional, *ultra vires* or not *ultra vires*. It will be for the Supreme Court to decide and I have no doubt that the Supreme Court will in due course decide that this is not a reasonable restriction. I may say that there is no such restriction anywhere in the world, in any democracy in the world and certainly not in the country from which we have borrowed Chapter 3 of our Constitution. It is not there. Therefore, it cannot be a reasonable restriction. I have absolutely no doubt in my own mind and therefore, I do not mind what Bill the hon. Home Minister passes but I will be failing in my duty if I did not draw his attention to this matter, so far as clause 4 is concerned i.e., putting no limit on the security. I say it is not only unfair, it is not only unjust, but it is preposterous and it will be a law-less law if this clause is passed in the form in which it is presented here.

I am sorry I have spoken in strong language, but unfortunately I only wanted to tell the House whatever I had in my mind and I did so in a straight-forward language. I do not

know to speak in a diplomatic language and I only tried to hint to the Home Minister one aspect of the question which probably has not appealed to him. I hope and trust that it will appeal and if it does not, God bless us.

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

"That the question be now put."

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

"That the question be now put."

The motion was adopted.

**Prof. K. K. Bhattacharya:** I have moved an amendment and I should be allowed to speak on this clause.

**Mr. Deputy-Speaker:** There has been sufficient discussion and we have agreed for closure. After moving an amendment, the hon. Member need not speak on it.

**Shri Rajagopalachari:** I observed, Sir, with some surprise that Mr. Goenka also got up to oppose the closure when he himself brought about the situation. I do not like this closure, though I must mention to Mr. Goenka that if he had not taken so much time, there would not have been such a closure. It was very unnecessary and as he himself admitted, he wanted to impress his point on me. He knows very well that such repetition and strong language do not impress me. It is only when a thing is put properly and reasonably that it impresses me. I do not blame him if he feels that he should speak out but the closure is due to him. This is by way of observation. I am really sorry if any hon. Members lost their chance to speak on it but I shall try to take notice of those amendments. After all, we are dealing with a more or less formal matter.

The first point is about the ceiling. Much strong language has been used about 'ceiling', and as if it were capital punishment. A man has only one life and capital punishment stands apart from all other things. When there are a variety of crimes and a variety of objectionable matters and a variety of people who run the presses and who run the newspapers, it is impossible to equate it with something like a capital punishment. Supposing a small press which prints a small leaflet is found to be wrong, the owner of that press has every opportunity to explain the absurdity and say that Rs. 10,000 if asked in such a case would be too much. Keepers of press like my friend, Mr. Goenka—he is the keeper, managing editor, politician, parliamentary Member and everything—when they

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are the accused, the question would be wholly different. In fact there are many people who own presses, who run the policy of the paper, who want to attack other people, but whose name does not appear there at all as editor, publisher or manager. What are we to do with these varieties of circumstances and the best solution in my opinion was this, that the Government would be bound by its own honour and upon its own inquiry and they would state when they make a complaint in each particular case what they think would be reasonable. In an ordinary damage suit the procedure is laid down in the same manner. There may be a tort ranging from zero to infinite damages and it is the plaintiff that puts down in his plaint how much he values his own damage and he puts it down and the court gives an award thereupon. It does not mean that everybody is to be fixed with the same maximum or with the same minimum. This is only what I have generally to say in answer to the 'atrocious character' of the clause that was alleged and in respect of not putting down a ceiling in this clause. What I have to explain is what I have done and let it be considered. In the old days when the executive had its own authority to take the money first without any further ado and only an appeal to the special Bench of the High Court would lie and even they were only asked to answer the question whether it was an objectionable matter or not. They could not go into the amount of security when the case was there; it was necessary to put a ceiling but today the amount has to be decided only by the competent authority. If Government puts down a claim for so much, then it is open to the first court and in the case of an appeal, the High Court to decide that matter as to what amount will be reasonable and all matters could be repeated by the Government and the party concerned in respect of the amount being reasonable or unreasonable or what it should be.

One particular point I should like to explain and I want the hon. Members' close attention to this difficulty that I have tried to overcome. I pictured to myself the procedure. I do not want anybody to be prejudiced. As soon as a case is laid before a court, what is the procedure? An enquiry will be held; a discussion will be held as to the matter being objectionable or not; all the arguments and controversies will be centred round that. Surely, if at that point, the court began to ask what would be the security if he find it to be objectionable matter, I say it

would lead to the impression that the judge had already been prejudiced. Everybody knows that the question of sentence is not discussed in a court when the case itself is being heard. So also, when a suit is being heard, they do not consider the question of damages unless it is such a case as they may discuss all the issues beforehand separately. Even there, the amount of damages would not be first discussed. Therefore, I want no talk at the time to prejudice the mind of people as to the result of the case. If we did not put down a ceiling in the Act and if we did not also put down that the complaining authority may put down the ceiling that he wants in the case, it would have been necessary for the court, after giving a finding that the matter was objectionable, to call parties together to consider the amount, and ask, 'I have found you guilty; please tell what the security amount should be'. That would be a procedure that would be cumbersome and unnecessary. I therefore thought that an over-all ceiling being theoretically placed in the Bill and not in respect of the particular objectionable matter and its glaring or innocent or trifling character, would serve no useful purpose. It was only when the hands of the arbitrary executive authority had to be curbed that it was necessary; but to curb a court it would be totally ineffective if we remember the vast variety of cases of objectionable matter that may have to be considered. Therefore I said, let the authority that goes to court put down the ceiling in each particular case. I think hon. Members will agree with me—I have no doubt in my own mind—that the ceiling which the competent authority will place in each particular case will not be an absurd sum or a fabulous sum or anything like what is being apprehended by Mr. Goenka. He is too much in the battle to see the thing in due proportion; he will forgive me for saying that. If once the battle is ended, and when this controversy has ended, he will see that no Government, no competent authority will, for the sake of the pleasure of stating it, state a figure which no court would agree to or accept. Therefore, I placed the duty on the Government that is complaining to put down the amount that they demand as reasonable security in view of the particular kind of matter about which they complain. I put a limit upon, not their greed or arbitrary power, but everything. I compel them to consider the case well and put it down. Then, it is for the court to take that as the ceiling and to give below that amount whatever he considers desirable or proper in each case. I have no doubt in my

own mind—I may be wrong—that this is a reasonable thing, and that the persons belonging to the press who are called upon to show cause will not suffer on account of this. If I put down Rs. 25,000 or 10,000 or whatever it is, it serves no purpose. Objectionable matters vary and differ so much from one another that this will serve no useful purpose. Then, we cannot have a minimum here. That has no place in the present scheme of things. We can only put a maximum. A maximum has also another tendency. Just like the ceiling prices which the Industries Ministry constantly states in answer to questions, it has a tendency to become the ruling rate also. I do not wish to do such a thing and to put down any amount in the Bill. That is my reason. I feel very strongly about it. I think it is useless to put down universal ceiling, so to say, one universal ceiling for all cases. I do not think it serves any useful purpose. Therefore I have not put it down. If my advice is to be taken, the House should not accept a simple ceiling. When the other clause comes, the point may be discussed whether the amount should be mentioned in the complaint or not, is slightly of a different character. I have referred to it in order to explain my position in this matter.

**Shri Deshbandhu Gupta (Delhi):** May I ask one question? May I know whether it was not open to the court under the Act of 1931 to reduce the amount of security? Then, what difference does it really make?

**Shri Rajagopalachari:** The High Court?

**Shri Deshbandhu Gupta:** Any court.

**Shri Rajagopalachari:** Under the old Act of 1931, it is only one court: High Court.

**Shri Deshbandhu Gupta:** Yes; the High Court. Under the Bill, I think it is open to the High Court to reduce the quantum of security.

**Shri Rajagopalachari:** If my hon. friend's question is a legal question put to me for opinion on the Act of 1931, I would not venture to give it. But, if my offhand reply is of any value, I may say that the form in which the appeal section is couched there, does not give the right to the High Court. But that is a matter of legal opinion; I may be wrong or right.

**Pandit Thakur Das Bhargava:** I may say that the amounts have been reduced in many cases in ordinary security cases.

**Shri Rajagopalachari:** That may be so. I do not stand on my legal opinion;

I did not wish to give it at all. What I say is, the court has the right to reduce; let it be taken for granted that I give it expressly here.

**Shri Goenka:** May I ask one thing? Excuse me for asking this question. You now said that the maximum will become the minimum just as in the case of ceiling prices.

**Shri Rajagopalachari:** I did not say that the maximum will become the minimum. I said that it becomes the ruling rate.

**Shri Goenka:** All right; ruling rate. You prescribe seven years imprisonment for an offence. Does seven years become the ruling rate?

**Shri Rajagopalachari:** You ask me a question; but you do not look at me. You look at others. Then, it is an interruption and it is not a question. I was told yesterday that you were a very good interrupter; you may be very good, but I am a better answerer at that.

**Shri Goenka:** I know that.

**Shri Rajagopalachari:** If you really wish to ask me a question; put it to me. Do not put it to the House.

Very well. Coming to the question, there are maximum punishments given in the Indian Penal Code because there they wanted to limit the powers of courts. I quite agree. Here, does it serve any purpose? It serves no purpose. Also, there, each grade of offence is taken up and it is split to some extent in a variety of sections. Here, it is not split at all. There are (i) to (vi) objectionable matters in the clause as it now stands and in each clause there are many varieties. It would be of no consequence whatever if a maximum is put down, unless you put down for each type of cases a certain maximum. It is impossible to deal with it that way. Also let it be remembered that this is not a fine; it is only security. There are various clauses in the Criminal Procedure Code and other laws for taking recognizances and binding people over. No amount is fixed. It is only stated it should not be excessive. That is the phrase. Here, it is taken for granted that it should not be unduly excessive. There is no question about that. Provision is made for the court to exercise its discretion in the matter. I do not want to stay longer on this point.

Another point that was referred to was—that is an important point—that if more than one person can be punished or pursued in respect of any

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particular matter, what is the necessity for attacking all of them, and therefore, if the printer is before you, if you know also who the author is or who the publisher is, do not proceed against all of them, do not proceed against the press. That was Mr. Bhatt's argument. I think he was very enthusiastic and put himself into the skin of the owner of the press very properly and argued his case at great length and with very great vigour. I want to tell him this. There are abettors. There are people in the conspiracy. If we take that analogous case, do we not punish all of them for one act? Is it necessary to weigh the singleness of offence and the punishment in the case of each man? No. As I told the hon. Member at that time, in a very early case, when I was quite a young lad practising at the Bar, I was the unfortunate counsel for four young people who were charged together for having belaboured and killed one person. All of them were hanged by the Judge because everyone was a murderer. Therefore, the general argument has no application. Let us go to the substantive question, namely, if the keeper of the press is ignorant and is not proved to have knowledge of the objectionable matter, do not proceed against him. That is the substantial point raised as could be seen from the examples of hard cases given. My only answer is that this is a preventive measure and it is in order to prevent dissemination of objectionable matter that this Bill has been conceived. We have to attack the weapon as well as the mind behind it. It is only then that we will effectively prevent such things.

I know presses are used by persons who themselves do not get registered; but they will not abstain from using the machine for their own purposes. Now, here in this Bill we wish to deal with criminal purposes. It is not a case of dealing with ordinary criticisms and things like that. And those who use the machine for criminal purposes do not give their names and even if they give the names of the author and the like, we cannot depend on that information. And inasmuch as we want to do preventive work, we will have to operate both on the printer and the publisher. This is a well-established practice and I do not want to go over the arguments again. It is only then that the publisher will find it difficult to get the thing printed. It is only then that the printer cannot escape by giving a wrong name of the

author. Both will have to be proceeded against. The question then is whether even if the matter is quite a trifling one the press should come in. If it is a hard case it must be left to the Court. But the fundamental point is that the keeper of the press must be responsible and I am sorry, though I have given thought to what Shri Bhatt pressed so hard, I am not in a position to make a fundamental change of this character. We have to proceed on the basis that the publishers and printers both are responsible. We have not included the authors because that is for individual punishment. But in the case of preventive action the registered publisher and the registered keeper should be held responsible and.....

**Prof. K. K. Bhattacharya:** Sir, on a point of information, may I ask what would happen if a book originally written in Russian and published in Russian is translated into an Indian language and printed and published in India? That book is not banned in Russia. Will you ban it in India?

**Shri Rajagopalachari:** If Prof. Bhattacharya translates any such book I would try to take suitable action.

**Prof. K. K. Bhattacharya:** But in all fairness, in a production of this kind should you put the onus so heavily upon the printer, and make him examine all the written matter? Now, suppose the hon. Minister after his retirement here writes.....

**Shri Rajagopalachari:** Is this a point of information or ...

**Prof. K. K. Bhattacharya:** I am just asking a question. If the Home Minister after retiring from the Government writes a book and sends it to a press and suppose unfortunately at that time the opposition is in power, am I to understand that his writing will have to be examined and scrutinised by the keeper of the press?

**Shri Rajagopalachari:** I may say at once, Sir, that it is possible that the keeper of the press may be very innocent; but I may also urge that it is possible that he may not be innocent. It is possible that some big printers may not be innocent and it is possible that small printers may be quite innocent—job-printers and the like. It is possible that Prof. Bhattacharya in a fit of absent-mindedness might translate a Russian book and he might not have understood the meaning of what was there and got it printed. The printer cannot be expected

to read all these books. I can admit the existence of such difficulties. But actually in practice there will not be any such difficulty, for the printer and the publisher would be in the court and the court would deal with both in a suitable and just manner, unless the printer takes care to protect the author and the publisher and does not wish to expose them, in which case he takes the punishment vicariously.

**Prof. K. K. Bhattacharya:** Sir, on a point of information, may I...

**Shri Rajagopalachari:** Is it a point of information or another argument?

**Prof. K. K. Bhattacharya:** Just two questions, first, is not the intention of the keeper of the press material, as suggested by Pandit Thakur Das Bhargava? And second, in the case of translation of books, whether from English to Hindi or.....

**Mr. Deputy-Speaker:** Order, order. The hon. Member is only repeating arguments that have already been advanced on the floor of the House so many times. Having lost an opportunity to speak he should not make this an opportunity to speak. He can only put questions and get information only if the hon. Member speaking gives way, not otherwise.

**Prof. K. K. Bhattacharya:** Sir I am only asking one thing....

**Several Hon. Members:** The Minister is not giving way.

**Prof. K. K. Bhattacharya:** I am trying to persuade him to take cognizance of certain circumstances.

**Shri Rajagopalachari:** We cannot have such tussles. We must proceed in some regular way. The hon. Member was not in the House during the greater part of the debate and the very thing that he has been saying has been discussed and also put down in the form of an actual amendment and I am replying to that.

Therefore I am sorry Sir, I cannot accept the proposal of Shri Bhatt in spite of his earnest plea, that no keeper should be taken if the author is known and the publisher is known. We cannot really take a new course altogether in respect of this matter. This has been the established rule and I do not wish to change it now.

Then the argument was advanced—I think it was Pandit Thakur Das Bhargava who raised it—that the words in part (b) that there are sufficient grounds for demanding security

—were too vague. Now, in a defensive provision that we put in the Bill, the provision should be large and should have as wide a scope as...

**Pandit Thakur Das Bhargava:** It is not a question of any defence. You must have a substantial provision so that the knowledge may be proved. Defence is for the accused and it is for you to prove the knowledge.

**Shri Rajagopalachari:** Let me be heard fully. With due respect, I wish to repeat that the hon. Member has misunderstood the context of the clause. The Session Judge should be satisfied about the objectionable matter—that is in (a). And in (b) he should be satisfied that there are sufficient grounds for making an order under this section. Here this is to protect the man. That is to say, if there are positively sufficient grounds, the judge is asked to take security from the press. Here he must be given the widest scope and if we define what are the sufficient grounds, that would only limit the conditions under which a press could be let off.

**Pandit Thakur Das Bhargava:** But what are the grounds on which.....

**Shri Rajagopalachari:** In any case, Sir, I am not convinced and the arguments advanced in favour of specifying the grounds mentioned in part (b) do not appeal to me. I think the larger the scope.....

**Pandit Thakur Das Bhargava:** I should not be misunderstood, Sir. I want to add that.....

**Shri Rajagopalachari:** If it is a question of adding anything to (b) that is quite different. But if the proposal is to introduce another sub-clause in order to limit the scope of the responsibility of the press, I am sorry I cannot accept that suggestion.

Then the point was made that in a democracy—I am sorry, Shri Guha is not present—this system of taking security is not present, that a democracy does not permit of the taking of securities. I do not think that is a big argument that needs to be answered. But I would like to point out that even in England, which is a democracy of which I know something, securities and recognizances are taken for various things and there is nothing inherently undemocratic or wrong in taking securities. On the contrary this system of taking securities should I think be found more useful and my own feeling is that in the whole field of criminal punish-

[Shri Rajagopalachari]

ment, and in dealing with criminals, we ought to use more preventive measures than the penalising measures. And here we are dealing with people who are possibly not morally responsible themselves. We should therefore put down a clause like this here.

The only question that remains is whether there should be a ceiling fixed. I have given the reasons why there need not be any such ceiling fixed. I may also mention that in the Select Committee this point was considered very fully and thoroughly and a great deal of time was spent over it. But the final collective wisdom of the Select Committee was in favour of not having a ceiling, but to mention the amount of the claim in the complaint filed.

**Shri M. P. Mishra:** Sir, may I ask just one question? Is not the presence of big business in the newspaper industry the prime factor that makes the Government feel that there should not be a ceiling fixed and if that is so may I know why for this reason the small newspapers should suffer on their score?

12 Noon

**Mr. Deputy-Speaker:** The hon. Member is giving the answer himself.

**Shri Rajagopalachari:** If the reason were correct, namely the presence of big businessmen is the cause of not putting a ceiling, the question would arise. But I will answer the second part of the question. Assuming that there are smaller people in it, their case is also contemplated and that is why a wide scope is left to the judge. I must mention that I am accepting the correction suggested by Mr. Mee-  
ran that the word "it" should be "him". Also I am moving an amendment that the words should be 'sessions judge' uniformly and not 'court' in one place and 'judge' in another.

**Shri Lakshmanan:** What is the hon. Minister's reaction to my amendment that in the proviso for the word "record" the word "issue" may be substituted.

**Shri Rajagopalachari:** I beg to move: For "court" occurring in line 13, substitute "sessions judge".

Regarding the recording of the warning the reason why I put down the word "record" is this. Issuing of warning or administering a warning are two alternative suggestions of

Mr. Lakshmanan. He is usually very good in his suggestions about verbal changes and therefore I gave considerable attention to it. It would involve that an order must be served upon the man. A record in the judgment would be more than necessary.

**Shri Lakshmanan:** Clause 18 refers to *ex-parte* judgments as well.

**Shri Rajagopalachari:** A copy of the judgment will go to him. In the case of issuing a warning it is an executive act and it is proper for the government to do such a thing. For the court to 'issue' a warning does not seem proper. It is better that it is recorded in the judgment.

**Pandit Thakur Das Bhargava:** Is the sessions judge in a position to demand a security higher than the one indicated in the plaint itself?

**Shri Rajagopalachari:** That will come under a later section. However, I would at once say: 'No'.

**Pandit Thakur Das Bhargava:** What is the provision for that in the Bill?

**Shri Rajagopalachari:** If in the relevant clause a word should be put in we shall consider it.

**Pandit Thakur Das Bhargava:** Is it not more consistent in this clause? I have given an amendment that after clause 9 a new clause 9A should be put in. That is pertinent here as well as there.

**Shri Rajagopalachari:** We will consider it then. But in that amendment he has also put in some other remarks.

**Pandit Thakur Das Bhargava:** It is more pertinent here.

**Prof. K. K. Bhattacharya:** Will the Minister consider the desirability of not putting any restriction upon the keeper of a press with regard to books or pamphlets published in other countries and which are not banned there. A book written in English may not be banned in the country of its origin. A printer publishing it here will come under the mischief of the Act.

**Shri Rajagopalachari:** In Russia a book may not be banned or in America there may not be a ban on a book and yet in India we may have to have a ban. In Pakistan there may be no ban on a book published there but are we to permit such books being published here?

**Prof. K. K. Bhattacharya:** In view of the fact that we are introducing

Hindi as the *lingua franca* and books have to be translated into Hindi from different languages, it is necessary that no restrictions should be put upon them.

**Mr. Deputy-Speaker:** The hon. Member is making another speech.

**Shri Lakshmanan:** Sir, I am left unconvinced by the Minister's reply. The Minister said that executive orders are only issued and not judicial orders. But summons are said to be issued.....

**Mr. Deputy-Speaker:** Does the Member feel that the Minister has not understood what he wanted? He understood it and is not convinced. As between the two are we to sit here until one convinces the other. If there has been a misunderstanding then it is another matter. It is not possible to convince one another on the floor of the House except within the reasonable limits afforded.

**Shri Meeran:** I want to withdraw my first amendment.

The amendment was leave withdrawn

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

For "it" occurring in line 2, substitute "him"

The motion was adopted.

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

For "sessions judge" wherever they occur, substitute "a High Court judge".

The motion was negatived.

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

Omit part (a).

The motion was negatived.

**श्री भट्ट :** गृह मंत्री जी की दलील जंचती नहीं है, वस्तु माननीय गृह मंत्री जी मेरे संशोधनों को स्वीकार करने के लिए तैयार नहीं हैं, इसलिए मैं उन को वापस लेता हूँ।

**[Shri Bhatt:** The arguments of the hon. Minister of Home Affairs do not sound convincing. But since he is not prepared to accept my amendments, I withdraw them.]

**Mr. Deputy-Speaker:** The Member desires to withdraw all the amendments standing in his name.

**Prof. S. L. Saksena** (Uttar Pradesh): No, no.

**Mr. Deputy-Speaker:** Which is the amendment which he wants to be put to the House.

**Prof. S. L. Saksena:** All.

**Shri Goenka:** There is one amendment which fixes the maximum security which can be demanded. That is the one on which we would like a vote of the House.

**Mr. Deputy-Speaker:** I shall put the third amendment of Shri Bhatt to the House.....

**श्री भट्ट :** मैं ने तो अपने संशोधनों को वापिस ले लिया है।

**[Shri Bhatt:** But I have withdrawn my amendments.]

**श्री गडगिल :** यह आप को इजाजत नहीं देना चाहते हैं।

**[Shri Gadgil:** But the Chair does not wish to allow the withdrawal.]

**Mr. Deputy-Speaker:** The hon. Member knows very well that once a matter has been placed before the House, the leave of the House has to be granted for its withdrawal. Even if a single Member objects to the leave being granted I have to put it to the House.

**श्री भट्ट :** मैं जानता हूँ, लेकिन मेरे और संशोधन तो वापिस हो गए, अगर किसी एक वास मेरे संशोधन को वापिस लेने की कोई सज्जन इजाजत न देना चाहते हों, तो उस को रखिये, लेकिन बाक़ी तीस सब वापिस होने चाहिये।

**[Shri Bhatt:** I am aware of that. My other amendments have been withdrawn. If any hon. Member does not want to allow me to withdraw any specific amendment that may remain there, but other amendments may kindly be allowed to be withdrawn.]

**Mr. Deputy-Speaker:** I will put every one to the vote of the House.

[Mr. Deputy-Speaker]

The question is:

In part (a) after "jurisdiction is" insert the following:

"despite being warned three times in writing by the competent authority,"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

After part (b) insert the following new part:

"(c) that the keeper of the press knew the nature of the objectionable matter printed or published."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

After "security" where it occurs for the second time, insert the following:

"of any amount not exceeding five hundred rupees for the second offence, provided that no security be demanded for the first offence in which case warning by Court shall be sufficient".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

For "twenty-one days" substitute "three months".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

After "such amount", insert "a sum not exceeding ten thousand rupees".

The motion was negatived.

Pandit Thakur Das Bhargava: There is my first amendment seeking to put the security at "not exceeding two thousand rupees."

Mr. Deputy-Speaker: I will come to that later.

Shri Rajagopalachari: There are so many amendments. Are we to put all of them suggesting various amounts? After all, Rs. 10,000 is the maximum suggested and when that motion has been lost it may be taken.....

Mr. Deputy-Speaker: I would put it to the House as to whether any

ceiling should be fixed or not. If the sense of the House is that a ceiling should be fixed then we will go into the question of what amount should be fixed.

Pandit Thakur Das Bhargava: All the amendments moved should be put, Sir.

Mr. Deputy-Speaker: If the House is so inclined I am bound to put all these amendments one after another.

I have already put the amendment containing the largest amount suggested. Now I will put the first amendment of Pandit Thakur Das Bhargava which contains the lowest amount suggested.

Shri. Naziruddin Ahmad (West Bengal): Sir, this is an important thing and we want that the votes should be recorded through a division.

Shri Sidhva: And there are other Members sitting in the lobbies also.

Mr. Deputy-Speaker: All right, let there be a division. But there are a number of amendments relating to this matter. They give various amounts: not exceeding, Rs. 10,000, not exceeding Rs. 2,000, not exceeding Rs. 5,000, not exceeding Rs. 3,000. So there are amounts suggested from Rs. 2,000 to Rs. 10,000. Under Rule 155 of the Rules of Procedure, it is open to the Speaker to select, in respect of any motion, the amendments to be proposed. I therefore propose to take up only one amendment which stands between those suggesting Rs. 2,000 and Rs. 10,000, that is the one suggesting Rs. 5,000. I am not going to put the others. And unless the House unanimously suggests to me what amendment I should put to the House, I am going to put this one.

Shri Goenka: You can put the one suggesting the maximum of Rs. 10,000.

Mr. Deputy-Speaker: That has already been put and lost. If there is a kind of unanimity about any particular amendment I shall put it, otherwise I will choose myself which amendment I will place before the House. I am not going to allow all to be put.

Pandit Thakur Das Bhargava: Sir, the previous amendment put and lost related to the maximum amount suggested. My amendment relates to the minimum amount suggested, namely Rs. 2,000. Therefore, this may be put.

Mr. Deputy-Speaker: The words 'not exceeding Rs. 2,000' are there.

Pandit Thakur Das Bhargava: The other amendments are to make

Rs. 5,000 the maximum. There are two kinds of security—the original security is mentioned in clause 4 and the subsequent security is mentioned in clause 5. I want that the lowest ceiling of Rs. 2,000 should be adopted.

**Mr. Deputy-Speaker:** There are amendments suggesting Rs. 5,000 instead of Rs. 2,000 and Rs. 3,000 instead of Rs. 2,000. There is no unanimity. But it looks to me that the general opinion seems to be in favour of Rs. 2,000. I think I shall put that amendment.

**Shri Rajagopalachari:** It would be very unreasonable though we agree to it. The amendments have been formally and legally given. You have the power to choose, but in choosing you must exercise the necessary discretion to get the clearest opinion of the House and you should do it in the manner that makes it possible to get at the sense of the House. When we considered the question of having a ceiling at all, there the highest would decide the matter, because if the House does not agree even to the highest then it may be presumed that it would not agree to a smaller amount. This is where the highest comes. I would therefore suggest that the highest available after Rs. 10,000, namely, Rs. 5,000 may be taken. It also coincides with the average. It would not be right to agree to Rs. 2,000. If Rs. 2,000 is adopted, it may well be argued that the House did not want such a low figure, and it might have probably agreed to a higher figure. I suggest Rs. 5,000 for several reasons.

**Mr. Deputy-Speaker:** There are two sides, as far as I am able to judge. The sponsor of the Bill is not in favour of any ceiling. That is one side. The other side wants some ceiling, but they want that it should be as low as possible. Therefore, I will put only Rs. 2,000 to the House and shall not allow any other amendment to be put to the House.

**Shri Deshbandhu Gupta:** If you do that, the impression would be that the ceiling is far too low. Those Members who want a ceiling would like it to be of an amount which may be reasonable. I therefore suggest Rs. 5,000.

**Mr. Deputy-Speaker:** Each hon. Member speaks for himself. I will put only the first amendment of Pandit Thakur Das Bhargava. I take the extremes—either there should be no ceiling, or if there is a ceiling, it should be the absolutely minimum ceiling.

The question is:

After "such amount" insert "not exceeding two thousand rupees."

The motion was negatived.

**Mr. Deputy-Speaker:** All other amendments pertaining to the fixation of a ceiling are ruled out.

**Shri Lakshmanan:** I beg to withdraw my amendment.

The amendment was, by leave, withdrawn.

**Shri Meeran:** I beg to withdraw my third amendment.

The amendment was, by leave, withdrawn.

**Shri Bhatt:** I beg to withdraw my second and fifth amendments.

The amendments were, by leave, withdrawn.

**Mr. Deputy-Speaker:** Now, I put the hon. Minister's amendment.

The question is:

For "court" occurring in line 13, substitute "sessions judge".

The motion was adopted.

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

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

**Clause 5.—(Power to forfeit security or demand further security.)**

**Mr. Deputy-Speaker:** Hon. Members desiring to move amendments will indicate the amendments which they wish to move.

**Pandit Thakur Das Bhargava:** I beg to move:

In part (ii) after "such further security" insert "not exceeding five thousand rupees".

**Shri A. C. Guha:** I beg to move:

In part (ii) after "further security" insert "not exceeding ten thousand rupees".

**Prof. K. K. Bhattacharya:** I beg to move:

After "complaint" insert "Chief Secretary or the Home Minister of the State concerned".

**Shri Bhatt:** I beg to move:

(1) For part (1) substitute the following:

"(1) declare not more than one-fourth portion of the security to be forfeited to the Government, or"

(ii) In part (ii) after "security" insert the following:

"not more than double the amount of the first security".

**Mr. Deputy-Speaker:** These amendments are deemed to have been moved. Discussion may proceed. Prof. Bhattacharya.

**Prof. K. K. Bhattacharya:** I wanted to speak on clause 4 but since you decided that more speeches would not be allowed, I bowed to your ruling. The fact of the matter is that I want that under clause 5, whenever a complaint is made by a competent authority in writing, we should say who is this authority. That has been left undefined. You are creating major actions against the press and restricting the freedom of expression, the freedom of speech, the freedom of writing, the freedom of correspondence. When you do that, it is absolutely essential that the task should be entrusted to a very high authority and not to a Sub-Divisional Officer or D.S.P. or S.P. I want a definite assurance from the Home Minister that no less a person than the Home Minister or the Chief Secretary of the State concerned will be the person empowered to take action under this section. It should not depend upon the discretion of the district officials. One uniform rule should be followed and in this case the competent authority should be definitely the Home Minister or the Chief Secretary of the State.

[SHRIMATI DURGABAI in the Chair]

I must in this connection bring to your notice one fact. If we leave the task of finding fault with the press or publications in the hands of small officials, it may just be possible that the work may be entrusted to one who may not have the knowledge to read through the matter, and what is unobjectionable may be penalised and what is objectionable may be passed over. Hence it is I suggest that an official of the status of the Home Secretary or the Home Minister should be entrusted with this job, and the term "competent authority" should be clearly defined. Otherwise there will be serious misgivings in the minds of

the press and that proper authority might be any one right from the Chief Secretary to the lowest constable.

**Shri Rajagopalachari:** While Mr. Bhattacharya is on this point, I would like him to correct his amendment. As it stands—insert after the word "complaint" the words "Chief Secretary or the Home Minister of the State concerned"—it does not fit in. What is it that is wanted. It is bad English. Suppose I accept the amendment, it will become a jumble.

**Prof. K. K. Bhattacharya:** It should be "Whenever upon complaint made to it in writing by the Chief Secretary or the Home Minister of the State concerned."

The fact of the matter is that here you are entrusting high authority to an unspecified person who may be specified later on. For example a State Government may authorise a head constable or a constable or S.D.O. I suggest there should be one uniform rule to be followed throughout.

My main point is that, in my opinion, power to forfeit security or demand further security, all these should be so limited as to inspire confidence in the press. Suppose a keeper of the press fails to deposit security within fifteen days. Would he not be afforded a second chance to deposit the security? I would therefore wish the Home Minister to create an impression that no drastic action is contemplated under clause 5. If I were to give out my mind frankly, I would say that the power to forfeit security or demand further security should be very charily exercised—exercised with extreme caution and reluctance. That is the reason why I want to impress on him that whenever a further security is demanded, justifiable reasons must be forthcoming. Otherwise it will be impossible to create confidence in the newspaper world.

You will no doubt agree with me, that the sheet-anchor of democracy is a free press. So long as we cannot have an independent and fearless press, a press that can speak out its mind, or can produce books irrespective of the smiles or frowns of the Government of the day, democracy cannot flourish. That may mean totalitarianism.

Under these circumstances, I plead with all the emphasis at my command the competent authority must be clearly defined. Otherwise there will be a serious lacuna in the Bill.

I am not at all in favour of the Bill. I would even now implore Rajaji in

all humility that he should drop this Bill even at this late stage.

**Pandit Thakur Das Bhargava:** I have given notice of an amendment which runs thus:

In part (ii) after "such further security" insert "not exceeding five thousand rupees".

**The Minister of State for Transport and Railways (Shri Santhanam):** After the reaction of the ceiling has not this amendment become anomalous?

**Pandit Thakur Das Bhargava:** I would like to know if the hon. Minister wants me to reply to his question. I think it is too obvious that his objection is untenable. I would submit that it is true, as the hon. Mr. Santhanam has pointed out, that the House has not accepted the ceiling in clause 4. But we are now dealing with another clause where the question of further security comes. I can understand that the House may not be agreeable to put a ceiling in the first case, but may agree to it in clause 5.

I may now submit why I want this ceiling of Rs. 5,000 to be fixed. In the first place my humble submission is that the whole of this clause has been so framed that it does not offer full protection to the keeper of the press. The clause begins with the words "Whenever upon complaint made to it etc." What is the nature of the complaint? What are the contents of the complaint? I had occasion to point out that the word "complaint" has been defined in the Criminal Procedure Code. But here it is misconceived. According to the Criminal Procedure Code complaint is a clarification that a certain offence has been committed. But here no offence has been committed, even according to the hon. the Home Minister. Therefore, the word "complaint" has been wrongly used. It is not known what is there in the complaint. The Sessions Judge is called upon to frame two issues: No. 1 whether the press has been used in the manner suggested and No. 2 whether there are sufficient grounds. If it is proved that the press has been used for printing of objectionable matter after the first enquiry has been made, then it appears that the idea of the hon. the Home Minister is that the burden is cast on the accused to prove his innocence. As a matter of fact, in a fair prosecution, it is for the prosecution to prove the knowledge of the person from whom security is demanded. I beg of the hon. the Home

Minister to kindly accept this as a burden on the prosecution, the knowledge of the keeper of the press must be proved by the prosecution.

**Mr. Chairman:** I want to know whether the hon. Member is speaking of Prof. Bhattacharya's amendment. His amendment relates to demand of security not exceeding Rs. 5,000.

**Pandit Thakur Das Bhargava:** I am giving reasons why this maximum ceiling should be put.

**Mr. Chairman:** Have we not adopted a similar wording in clause 4? There we have accepted the same wording, that is "upon complaint made to it in writing". So here we have not defined complaint, nor did we impose that kind of responsibility on the prosecution. I think the wording in clause 5 is the same.

**Pandit Thakur Das Bhargava:** The wording here is not bound by the wording in clause 4, as the decision about ceiling is not binding upon this. Because a further restriction if placed upon a person this precaution should be there. Is it not necessary that the prosecution should prove the knowledge of the person against whom the prosecution is launched? I told the hon. the Home Minister that the burden should be cast on the prosecution.

**Shri Rajagopalachari:** I am sorry to interrupt the hon. Member. Is he arguing merely on the generality of the case? He has not given any amendment regarding the matter he is putting forth in his argument, as far as I know. I want to be corrected if I have missed some amendment.

**Mr. Chairman:** I put the question to the hon. Member whether he was speaking on his own amendment or on Prof. Bhattacharya's amendment about complaint and other things.

**Shri Rajagopalachari:** Even then the question of knowledge was not at all there in any of the amendments. The Deputy-Speaker has fixed the amendments after asking the hon. Members. One is that the Chief Secretary or the Home Minister should be there instead of the competent authority. Another is Mr. Bhatt's amendment that only one-fourth of the security should be forfeited to Government and not more. The third is Pandit Bhargava's amendment that the further security should be not more than Rs. 5,000. The last is again Mr. Bhatt's amendment that the further security should be not more than double the amount of the

[Shri Rajagopalachari]

first security. There is no amendment about knowledge, unless it be that I have missed any, and I would like to know. The argument has gone on for days together.

**Mr. Chairman:** There is no amendment about it either moved or given notice of. But his point is that the responsibility should be cast on the prosecution to prove his knowledge. But no such amendment is before the House.

**Shri Rajagopalachari:** If no amendment has been moved, he must oppose the clause. That is all.

**Pandit Thakur Das Bhargava:** I am entitled to submit that clause 5 may not be passed for the reasons which I am giving. I give as the first reason that you should fix a ceiling of Rs. 5,000 because according to the showing of the Home Minister the burden is not cast upon the prosecution. It is cast upon the accused to show the absence of knowledge. Under such a condition the law should be provided so that in the ordinary civil courts innocent persons may not be harassed unnecessarily. It is one of the reasons why I want the ceiling to be not more than Rs. 5,000. The second reason is as was pointed out by Prof. Bhattacharya that 'competent authority' as given in clause 5 has not been defined. His argument is very sound that you should appoint a high authority who should go into the question and sift out whether a particular case ought to be put into court or not. Thirdly, because it is a case of further security—it is not necessary that the previous security may be forfeited—in a case of this nature when the previous security is already there, more security may be demanded in a subsequent case so that the cumulative security may be much greater than ordinary people may be able to give. Therefore I have put Rs. 5,000. Considering Indian incomes Rs. 5,000 is the highest amount which I could possibly put. I know that in the Act of 1931, Rs. 10,000 was the maximum. Here I am submitting Rs. 5,000. But I am taking into account that under clause 4 also security may have been demanded and it may not have been returned. Therefore in a case of this nature Rs. 5,000 may actually mean Rs. 10,000 or more—because the House has already passed that a ceiling is not fixed it may be that Rs. 10,000 or more may be demanded. I want at least the maximum amount of further Security which a person may be

asked to deposit to be within a certain amount. It is entirely different from the original ceiling. In regard to every offence we put the maximum amount of penalty which may be given to any person. I would very humbly ask the hon. the Home Minister to consider Bentham's first law that all penalties must be proportionate to the enormity of the offences. If the use of a birch is sufficient you ought not to use a rod. Rs. 5,000 is a reasonable penalty. If you make it absolutely such an amount that nobody can pay, people will not deposit it whatever the consequences may be. Therefore I am submitting that you must put a ceiling on the amount so that innocent persons may be saved and at the same time your rules under clause 5 may work.

**Mr. Chairman:** May I ask hon. Members to be brief in their submissions so that the work could be expedited? Practically all the general principles have been stated. It is better now that they speak within the scope of the amendment and just explain it.

श्री भट्ट : मैं बड़ी बोलूंगा। माननीय सभा नेत्री जी, चौथी धारा पास हो जाने के बाद मैं यह दलील नहीं पेश कर रहा हूँ कि जो कुछ हो रहा है वह जितना अच्छा होना चाहिये उतना अच्छा नहीं हो रहा है। मैं गृह मंत्री जी का ध्यान इस ओर दिलाना चाहता हूँ कि वह सिक्यूरिटी (Security) की कोई हद नहीं बांधना चाहते हैं और उन्होंने चौथे क्लास में भी वह चीज स्वीकार नहीं की थी। मैं फिर भी यह मानता हूँ कि हम को कहीं न कहीं तो हद बांधनी चाहिये। लेकिन अब जब कि हम पांचवीं धारा की बात कर रहे हैं और मुद्रणालयों के मालिकों को सजा कर रहे हैं तो हमें कुछ न कुछ मर्यादा बांधनी चाहिये और मैं यह सुझाता हूँ कि जो जमानत है उस का केवल चौथाई भाग ही जब्त किया जा सके। मैं जानता हूँ कि न्यायालयों में फर्स्ट क्लास मजिस्ट्रेट को अमुक मर्यादा दी गई है। वह अमुक हद तक सजा कर सकते

है। और कानूनों में भी हम ने इस प्रकार की मर्यादाएँ रखी हैं। तो अगर यहाँ भी हम कोई मर्यादा रख दें तो बेजा नहीं होगा।

मैं एक बात की तरफ माननीय गृह मंत्री जी का ध्यान दिलाऊंगा कि रेलवे ऐक्ट (Railway Act) में जहाँ लाइफ (life) का कम्पेन्सेशन (compensation) देने की बात है वहाँ भी हम ने अपनी जिम्मेवारी दस हजार रुपये तक ही रखी है। जिन्दगी की कीमत लाखों और करोड़ों को मानी जाती है लेकिन हम ने यह सोचा कि हमारी मर्यादा दस हजार से ज्यादा नहीं हो सकती है। इसी तरह जब हम कोई सजा करते हैं तो उस में अगर हम कोई मर्यादा रखें तो ज्यादा अच्छा होगा। इसी लिये मैं ने कहा कि चौथाई से ज्यादा जमानत जम्त करने की सजा न की जाय और दूसरे हिस्से में मैं ने यह बताने की कोशिश की है कि दूसरी मर्तबा जो जमानत माँगी जाय वह पहले से दुगुनी हो। इस तरह उस मुद्रणालय पर भी आप की कड़ाई रहेगी। मैं मानता हूँ कि इस बात में तो गृह मंत्री जी को कुछ सोच विचार करना होगा इस में तो उन को कोई आपत्ति नहीं होगी कि यदि वह मर्यादा मान लें तो सरकार के ऊपर या सेशन जज के ऊपर हम कोई प्रतिबन्ध लगा रहे हैं। लेकिन जरूर हम को कोई हद बांधनी चाहिये। मैं समझता हूँ कि विशेष कहने की जरूरत नहीं है।

(English translation of the above speech)

**Shri Bhatt:** Sir, I will confine my remarks to that. After clause IV has been passed I am not putting forward the argument that whatever is being provided is not as it should be. I wish to draw the attention of the hon. Minister of Home Affairs to the fact that he does not wish to fix a ceiling for the security that can be demanded. That is why he did not accept my

amendment to clause IV. Still I say that we must put a ceiling somewhere. Now that we are discussing clause V, which deals with punishment that can be meted out to the proprietors of presses, I suggest that we should set a limit and it should be that only one-fourth of the security may be forfeited. I know that provision has been made as to the limit of the punishment, a First Class Magistrate can award. In other Acts also such provisions have been made. Under these circumstances if we set a limit here too, it will not be improper.

I wish to draw the attention of the hon. Minister of Home Affairs that in the section dealing with compensation in the Railway Act, the ceiling is Rs. 10,000, i.e. we have limited our liability to that. A life is worth millions of rupees but we have decided that that is the limit up to which we can go. In the same way there should be a limit, with regard to awarding of punishment. That is why I have proposed that the forfeiture of security should not be more than one-fourth of the total amount. In the second part I have tried to explain that the amount demanded as security for the second time should be double the amount of the first security. In this way those presses from whom security has been demanded will be under the strict vigilance of the Government. I know that the hon. Minister of Home Affairs will have to give a lot of thought to this. I don't think he will consider that fixing a ceiling for security will be a restriction on the Government. We must fix a ceiling and I need not say anything more on this point.

**Mr. Chairman:** Mr. R. K. Chaudhuri: Since the hon. Member is not alert, he has lost his right. The hon. Minister.

**Shri R. K. Chaudhuri (Assam):** It was not my fault, Madam. My hon. friend drew my attention elsewhere.

**Mr. Chairman:** I will be in fact too happy to get a policy to be followed from the hon. Member, at least once. Anyhow, in this case I am not going to allow him to speak. I have waited for two minutes.

**Shri Rajagopalachari:** The hon. Member must accept the Chairman's ruling.

**Shri R. K. Chaudhuri** rose—

**Mr. Chairman:** I am helpless.

**Shri R. K. Chaudhuri:** I have been allowed to speak. Madam, at this stage of the debate, I had drawn the

[Shri R. K. Chaudhuri]

attention of the hon. Minister to the fact that if the definition of 'competent authority' is to stand as at present, various complications may arise and he very kindly promised to look into the matter. I suggested that although the definition may stand as it is, something like this may be added: "that the officers should not be below the rank of a certain specified class" and, for instance, it should not be the officer who complains.....

**Mr. Chairman:** I think the hon. Member is making a speech. I made a special concession in his case though generally concessions are supposed to be made in favour of women from this rule. He may not make a speech now.

**Shri R. K. Chaudhuri:** I am not a female but I submit that my position is worse than that. That point may be answered by the hon. Home Minister.

**Shri Rajagopalachari:** Madam, I wish to deal with this matter very briefly. The question is first of all whether 'the competent authority' should be described in other terms such as Chief Secretary or Home Secretary and the like or not below a certain rank in office and the like. I submit that it may be left to the Government to keep this in mind. The very fact that the phrase 'competent authority' is used and not an officer or authorized officer shows that they intend to take special steps about it and to define who the 'competent authority' should be. I would beg of the hon. Member who suggests the minimum rank to be specified not to press for it; it will be kept in mind and it will be given effect to. It is not the intention of Government to ask every Tom, Dick and Harry to file a complaint in such matters and States and States differ and we have to fix who the man should be and also a certain amount of uniformity is necessary in finding out and assessing guilt. For taking the proceedings, we are sure to have a high competent authority and I would appeal to Mr. Bhattacharya's usual reasonableness not to press for Home Secretary or Chief Secretary in this connection. After all the Home Secretary and the Chief Secretary are officials in the Secretariat and they should not go to the Magistrate's courts. . .

**Prof. K. K. Bhattacharya:** These complaints can be signed by them.

**Shri Rajagopalachari:** What the hon. Member means is that a certain amount of care should be taken by Government before anybody takes action

and that will necessarily be provided for the person who is to go and plead in the sessions court on issues should have to wait day after day and appoint lawyers and things like that. For that purpose a competent authority is designated. In other matters Government will. . . .

**Prof. K. K. Bhattacharya rose—**

**Mr. Chairman:** You have sufficiently explained the position.

**Shri Rajagopalachari:** I have given the administrative reasons. It is not desirable to accept any particular name here or the office to be inserted in this clause. I am sorry I cannot accept. I hope the hon. Member will not press it. I will add one more word for Mr. Bhattacharya's consideration. The House has already passed the main section, namely clause 4. We should not have a zig zag arrangement. The hon. Member will no doubt ask me to alter the previous section now. It is not right to go back like that. Once we have accepted the principle of the phrase in clause 4, I say it is an additional reason why we should not press for it in clause 5.

Coming to the main point about the 'amount', I want to bring this to the notice of my hon. friend Mr. Bhatt. If security is taken from anybody and we provided that under no circumstances 3/4th of that will be taken but 1/4th will be taken, what is the meaning of 'security' then? The very idea of security is that the whole amount should be risked by the person who puts it before he takes a second wrong step. We are dealing in clause 5 with a person who has been already tried and has been asked to give security and not only sent off with a warning. Then this press in respect of which a security has been deposited is again used for the purpose of printing matter which is objectionable. I do not see why that person should be told beforehand by law that whatever security he has deposited, 75 per cent. will be his own and it is only 25 per cent. that will be taken as security. I submit there is no meaning in this proposal stating that it should be reduced. . . .

**Shri Bhatt rose—**

**Shri Rajagopalachari:** I may be quite wrong in my argument but I leave it at that.

I come to the other point that further security should not be more than double or it should not be more than Rs. 5,000 as suggested by Pandit Thakur Das Bhargava. I submit that the principle which we have applied

hitherto to the main section 4 should be applied here also and there is no question of putting a maximum for a second time when the same press or the same paper comes up for inquiry for a second offence. I submit here there is greater reason why there should not be a limitation put on it.

**Mr Chairman:** I understand the hon. Minister is moving some verbal amendment.

**Shri Rajagopalachari:** I have an amendment for converting 'it' into 'him'. It is a grammatical mistake.

I beg to move:

For 'it' occurring in line 2, substitute 'him'.

**Mr. Chairman:** May I know who are the hon. Members who still insist on putting their amendments to vote of the House?

**Pandit Thakur Das Bhargava:** I want my amendment to be put.

**Shri A. C. Guha:** I beg to withdraw my amendment.

The amendment was, by leave, withdrawn.

**Shri Bhatt:** I wish to withdraw my amendments.

The amendments were, by leave, withdrawn.

**Mr. Chairman:** The question is:

In part (ii) after "such further security" insert "not exceeding five thousand rupees".

The motion was negatived.

**Mr. Chairman:** The question is:

After "complaint" insert "Chief Secretary or the Home Minister of the State concerned".

The motion was negatived.

**Mr. Chairman:** The question is:

For 'it' occurring in line 2, substitute 'him'.

The motion was adopted.

**Shri Sonavane (Bombay):** May I suggest something. I suggest that we omit the whole thing. I consider these two words "to it" are superfluous.

**Mr. Chairman:** It may be left to the draftsman.

**Shri Rajagopalachari:** It will be for the draftsman to make 'it' into 'him'.

**Mr. Chairman:** The question is.

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

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The motion was adopted.

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

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

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

[MR. DEPUTY-SPEAKER in the Chair]

#### PAPER LAID ON THE TABLE

SUPPLEMENTARY STATEMENT SHOWING ACTION TAKEN BY GOVERNMENT ON VARIOUS ASSURANCES ETC. GIVEN DURING THE BUDGET SESSION, 1949

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to lay on the Table a supplementary statement showing the action taken by the Government on various assurances, promises and undertakings given during the Budget Session of the Constituent Assembly (Legislative), 1949. [See Appendix XII, annexure No. 2.]

#### PRESS (INCITEMENT TO CRIME) BILL—contd.

Clause 6.—(Consequences of failure to deposit Security.)

**Pandit Thakur Das Bhargava:** I beg to move:

(i) In part (c) of sub-clause (1) after "document" insert the following:

"Without the permission of the Government".

(ii) In sub-clause (2) after "it should not be" insert "temporarily".

(iii) In sub-clause (2) for "should not be forfeited to Government" substitute "should not be temporarily closed".

(iv) In sub-clause (2) after "any part thereof" insert the following:

"Proved to have been used for the purpose of producing the objectionable matter".

(v) In sub-clause (2) for "to be forfeited to Government" substitute "to be temporarily closed for any period not exceeding one year".

(vi) In sub-clause (2) for "to be forfeited to Government" substitute "to be temporarily forfeited to Government".

(vii) In sub-clause (2) add the following at the end: "for any period not exceeding one year".

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(viii) In the Proviso to sub-clause (2) for "so forfeited" substitute "so temporarily closed".

(ix) In the Proviso to sub-clause (2) for "so forfeited" substitute "so temporarily forfeited".

(x) In the Proviso to sub-clause (2) for "of the order of forfeiture" substitute "of the order of temporary closure".

(xi) In the Proviso to sub-clause (2) for "of the order of forfeiture" substitute "of the order of temporary forfeiture".

**Shri A. C. Guha:** I beg to move:

(i) To part (b) of sub-clause (1) add the following Proviso:

"Provided that after a period of six months, in case of a *bona-fide* sale, the purchaser with the permission of the court, may be allowed to have a fresh declaration without the payment of the security demanded previously."

(ii) In sub-clause (2) for "be forfeited to" substitute "be for the time being kept under the control of".

(iii) In sub-clause (2) for "declare the press or any part thereof to be forfeited to Government" substitute the following:

"declare the security amount to be converted to a fine of an equivalent amount to be realised as in the case of revenue arrears".

**Shri Lakshmanan:** I beg to move:

In the Proviso to sub-clause (2) after "required amount" insert the following:

"and such further amount as may be ordered by the magistrate towards the incidental charges if any incurred in connection with the removal or custody of the press or part thereof".

**Babu Gopinath Singh (Uttar Pradesh):** I beg to move:

(i) In sub-clause (2) for "any magistrate" substitute "a sessions judge".

(ii) In the Proviso to sub-clause (2) for "three months" substitute "six months".

**Shri Bhatt:** I beg to move:

(i) In part (b) of sub-clause (1) after "Press Registration Act" insert the following:

"within six months after the annulment of the declaration under clause (a) of this section".

(ii) In part (b) of sub-clause (1) omit "nor any other person".

**Mr. Deputy-Speaker:** These amendments are deemed to have been moved.

**Babu Gopinath Singh:** My amendments are very simple. I want that a magistrate should not hear the complaint of the competent authority, but that a sessions Judge should hear the same. Generally, any magistrate functions under a District Magistrate and the District Magistrate will also be the officer of the competent authority in the district. Therefore, a sessions judge is expected to function more independently. My other point is that the Government should not wait only for three months, but should wait for six months after forfeiture and before disposing of the press so forfeited. The person concerned should get more time to arrange for security.

**Pandit Thakur Das Bhargava:** I moved eleven amendments. The first point that I wish to lay before the House is the question of forfeiture, which is the result of proceedings under sections 5 and 6. I am not satisfied with this provision of forfeiture. This provision of forfeiture is a very drastic remedy, out of all proportion to the malady itself. You deprive a man of his means of livelihood. In a case under sections 4 and 5, according to me, there will be many people who will not even know of the nature of the objectionable matter. There will be no proof against them about their knowledge. There will be many innocent people whose presses will be forfeited. I want to attack the question of forfeiture from several points.

First, according to me, this clause is opposed to the Constitution. Under article 19 (f) every person has been given the fundamental right to hold and dispose of property. My submission is that it will so happen that the real owner of the press will not even be informed of the proceedings before the sessions judge or before the magistrate. A person who is keeping the press, or who has taken the press on lease or who is a mortgagee of the Press or who has taken it in any other way from the owner, will be proceeded against and without the knowledge of the owner the press could be forfeited. It is against the fundamental provisions of the Constitution. When I consider the effect of another clause in the

Bill which says that this order will be conclusive, I am fortified in my opinion that this provision is against the Constitution.

Now, Sir, I come to the question whether forfeiture as a punishment is a desirable thing at all. There was a time when forfeiture was provided as a punishment in respect of several offences under the Indian Penal Code. If a person wages war against the King, his property was forfeited. In 1921, this provision was changed. Even the property of a person who wages war against the King is not liable to forfeiture. This forfeiture, as I have submitted already, is a very drastic remedy. It has not only affected the person whose property is forfeited. His livelihood and the livelihood of the whole family persons who are absolutely innocent is also affected. The result would be that the person would not only not be able to earn his livelihood; it may be that he may have to incur other penalties. If the owner of a press had given it on lease or on certain other conditions, in case it is forfeited, it may be that his other property may also be proceeded against to recover the debt. Therefore, by this forfeiture, it may be that he may have to incur other losses in respect of this forfeiture. The owner, if he proceeds against him may recover the amount from his property. This would be another penalty. I would beg of you to look at the question from another angle. The hon. Minister has taken good care to see that he has relied upon those portions of the Press Laws Enquiry Report which are in his favour. There is one suggestion in the report—a suggestion which is most absurd—that the provisions of the Act of 1931 should be incorporated in the law of this land. The Government has not so far attempted to do that; I do not think Government will ever attempt to do that. The hon. Home Minister has been pleased to rely upon that portion. He also read out to us from many other places from the report of the Press Laws Enquiry Committee whenever it suited his purpose. May I humbly request him to look into the recommendations of this Press Enquiry Committee, which was appointed by the Government. He has been pleased to speak very highly of persons who were on that Committee. Sir, this is not the place where I should condemn those persons. In fact, in respect of one recommendation, I am completely at variance with them. I do not like that recommendation of the Committee that the

provisions of the 1931 Act should be incorporated in the law of the land. But at the same time as the hon. the Home Minister has spoken in such eulogistic terms of those persons who made that report, may I humbly request him to accept this recommendation that they made in their report, namely, that there should be no forfeiture? I hope the hon. Minister can easily accept this recommendation of the Committee if he thinks that the report has been made very rightly and those persons who were the authors of the report were persons whose opinion he respects.

Then again, after all, what is the fault of the person who is proceeded against? Let us look at the question from another angle. Preventive action should not be punitive. That is the first principle to be borne in mind and considered in this connection. This forfeiture provision is the most drastic provision and it is nothing but punitive. And it is now realised—and the Home Minister has also said so—that where forfeiture takes place double penalty should not be given. That person is not to be punished or prosecuted under any other section. So forfeiture is certainly a penalty and a punishment and it is punitive.

Now the principle of preventive action is that no unnecessarily excessive or adverse consequences accrue to the person against whom preventive remedies are resorted to. When we consider sections 107, 108, 109 and 110 of the Criminal Procedure Code and other sections also, we will, I am sure, feel convinced that we should not proceed with such drastic measures in this Bill. So I would request the hon. Home Minister not to provide such drastic remedies in this Bill.

I submit for the consideration of the Home Minister that according to the first principles of law and the canons of legislation it has been laid down that you should have the proper remedy, the appropriate punishment for the appropriate offence. If you give very drastic remedies or punishments for ordinary offences, the result will be that people will not be able to appreciate the punishments and on the contrary, those very persons who commit lesser crimes will be prone to commit greater crimes as attract higher punishments. This is the first law propounded by Bentham that you should not use the rod where the birch can be used. If you can effect your purpose by smaller punishment, it is better to inflict those lesser

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punishments and not resort to higher punishments. If you do, the result will be that the people will begin to think, why not do the greater crime? Let us do that, the punishment, after all, will be the same.

In a case of this nature when the security provisions are resorted to and the press is forfeited, the proceedings will be before a magistrate. I have suggested in my amendment that the press may be allowed to be used with the permission of the Government. After all it is a machine and we are not punishing a machine. If the press is forfeited and it is not used, then it is so to say, imprisoned just as any human being is imprisoned. We have heard it from the Home Minister that he is proceeding against the press and so the intention of the person proceeded against is not material. So he proceeds against an inanimate object. So let him imprison the press for a year or two. If a person violates a bond or undertaking, under the security scales he gets simple imprisonment for a year or two. Similarly, let the press be imprisoned for a year or two. Let the press not work. Let it rest for a while. I can understand temporary closure of the press or temporary forfeiture, in whatever language the Home Minister may like to put it. I have no objection to that. If you so please, you may imprison the press for a year or two and that will be enough punishment. What will the keeper of the press do if the press is imprisoned? He will be prevented from disseminating the things which you do not want to be disseminated. And so, on all accounts, that will be sufficient punishment.

If you have this forfeiture provision here, what will the word say? In the world to-day this sort of forfeiture is not a recognised form of punishment. Not only in other countries, but even in our country an Act was passed in which they provided that the offences in which forfeiture is laid down as essential or is provided, that punishment shall be taken away. That was passed in 1921—Act XVI of 1921. I am glad to-day to take the distinguished name of Sir Tej Bahadur Sapru, one of our most distinguished countrymen and one of the greatest patriots that India has produced. It was he, who as a Member of the Viceroy's Council when a Committee was appointed to look into these obnoxious laws, got those laws repealed. In 1921 the Acts of 1910 and 1908 were repealed and it was he who put sections 99 (a) to (f)

on the Statute Book in place of the previous obnoxious laws. Certainly those who come after us will be able to say that Sir Tej Bahadur repealed the Acts of 1908 and 1910 and they will also say that Rajaji repealed the Act of 1931. But in the case of the former, those old Acts were repealed and nothing was substituted in their place. But here the Act of 1931 stands repealed, but another Act which is equally bad is substituted. That is the difference.

I will submit that the 1921 Act repealed those parts of the punishment in regard to waging war against the King. I will point out how the law at present stands so far as forfeiture is concerned. I am reading with your permission, Sir, a small extract from Ratanlal's Law of Crimes. On page 89, under the heading "Forfeiture" you find:

"Absolute forfeiture of property was a punishment inflicted on persons guilty of high political offences. It could also be inflicted on persons guilty of offences punishable with death. It has been abolished by Act XVI of 1921."

In England this punishment is abolished by 33 and 34 Victoria. In America too it is done away with.

Forfeiture of specific property is still retained as a punishment in the following cases:

(1) Whoever commits or prepares to commit, depredation on the territories of any power at peace with the King, shall be liable in addition to other punishments, to forfeiture of any property used, or intended to be used, in depredation, or acquired thereby.

(2) Whoever knowingly receives property taken as above mentioned.

(And there is one more case in which forfeiture is allowed, and that is very interesting):

(3) A public servant, who improperly purchases property, which, by virtue of his office, he is legally prohibited from purchasing, forfeits such property.

In the whole Penal Code, these are the three sections in which forfeiture is provided. In England it is done away with, so also in America, and in our law by Act XVI of 1921 we did away with it.

In 1950 in this House we had occasion to consider this question on another occasion when the Assam Emigrants Act was enacted in this House. Then I suggested that the property of the harbourer who harbours a national of Pakistan with a view to settle him in India may be forfeited if he does not abide by the law and commits the crime of harbouring. On that occasion a Minister of the Government said that he could not possibly accept such an amendment. He gave us the history of those provisions and told us what the nature of the punishment was and how he looked at it. I would make a present of his speech to the hon. Home Minister. With your permission I will read a portion from the speech of hon. Shri. Gopalswami Ayyangar, whose views are of such a weighty character that the whole House should be bound by it. He made the speech in reply to the amendment which I moved. I accepted what he said and did not press my motion. I beg the hon. Home Minister to kindly hear what he said then and in view of this opinion I would request the Minister to kindly accept this provision which will take away much of the sting from this law.

"The main issue that has been pressed upon me in the course of this debate is my non-acceptance of the amendment which tries to insert in the clause about penalties, the punishment of forfeiture of property. I had not investigated the matter before I gave an answer, but my instinct told me that under no circumstances should I accept it. But after having heard the speech of the Members who spoke on Friday last, I have tried to make some investigation into this question and I should like to place before this House the results of that investigation. I may at once say that that investigation has only fortified me in the position that I took on Friday. I said on Friday that the Indian Penal Code reserved this punishment of forfeiture of property for some very heinous offences only amongst them the offence of waging war against the King, and when I said that there was a considerable amount of interruption from hon. Members and I had to say something in reply. Finally I wound up on Friday by saying that if I had any little reputation still left for reasonableness, my acceptance of that amendment would make me lose even that little.

Now, Sir, the result of my investigation has only established the fact that if I did accept that amendment, it would ruin my reputation as a person who understands the principles on which punishments should be regulated for offences that are created by law. I wish to point out that as the Indian Penal Code stood till about twenty-eight years ago the punishment of forfeiture of property was prescribed for a number of offences and in several cases, that punishment was even compulsory. But in 1921, the Central Legislature of this country enacted a law which removed this blot from our Statute Book. That was Act XVI of 1921."

Then he said:

"In the Indian Penal Code of 1860, to which my hon. friend referred, forfeiture of property was provided by sections 61 and 62 for a number of offences, in some of which it was a compulsory form of punishment. Those two sections were deleted from the Indian Penal Code by Act XVI of 1921."

A law which was removed then, according to Mr. Gopalswami Ayyangar, is again brought on to our Statute Book.

He proceeded further and told the House how the forfeiture provisions were provided and how they were removed from the Statute Book by Act XVI of 1921. While giving the history of the provisions he referred to the speeches of Dr. H. S. Gaur and said:

"Now, I refer to Dr. H. S. Gour who, to the regret of all of us, passed away only the other day."

Here is what he said:

"Sir, while I congratulate the hon. Mover for thinking of amending the Indian Penal Code, as regards the forfeiture of property I suggest to him that the whole clause dealing with the forfeiture of property be deleted from the Indian Penal Code. When this provision became part of the Indian Penal Code, a Select Committee introduced the clause relating to forfeiture of property because it was then in conformity with the existing law of England. But subsequently in 1870, that is, eighty years, by statutes XXXIII and XXXIV Vic. Chap. 23, Sec. I passed on the 4th of July 1870, the English law of forfeiture was

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completely altered by a statutory repeal of all penalties of forfeiture except only in the case of out-lawry."

That was what he said:

"And then the late Dr. Sapru, who I believe, was then Member of the Executive Council, thought it necessary by a motion to have the Bill referred to a Select Committee. The Select Committee reported and after that report was placed before the House, the hon. Sir William Vincent moved that the Bill as amended by the Select Committee (and the amendment was in the direction of the deletion of these provisions) should be taken into consideration and passed."

He said:

"The discussion on the last occasion when the Bill was before this House centred chiefly on the question whether this form of penalty should be.....inflicted only at the discretion of the court and not as an obligatory punishment in the case of certain offences as is the case at present under the law. The Select Committee have examined this point and they have recommended unanimously that the penalty should be done away with, but that in certain cases under sections 121, 121-A and 122 of the Penal Code, the Criminal Procedure Code should be so amended as to allow the realisation of fines from immovable property.

Now what is the present position in the Indian Penal Code? Forfeiture of property is not a punishment for waging war against the King; it is not a form of punishment for promoting insurrection against the established Government. It is not—I am saying this with reference to the interjections that were made on Friday last that the man who harbours a person who has immigrated into Assam is a traitor. It was suggested that he harbours somebody who has committed an offence against the stability or the security of the State and therefore there is no harm in providing for forfeiture of property in a case of that sort, if that punishment was provided for waging war against the King."

He proceeded in undying words to lay down the principles why forfeiture of property should not be allowed in India.

**Mr. Deputy-Speaker:** The whole book is being quoted.

**Shri Rajagopalachari:** Not very pertinent.

**Shri Deshbandhu Gupta:** They are very pertinent.

**Pandit Thakur Das Bhargava:** I am quoting from the debates in this House and perhaps you, Sir, were in the Chair when this speech was delivered by Mr. Gopaldaswami Ayyangar. He spoke with so much fervour and said so many things with regard to forfeiture that I would never again give an amendment so far as forfeiture is concerned. I appeal to the hon. Home Minister to consider these words which should be written in letters of gold and I want the Government to practise them.

**Shri Sidhva:** My friend forgets that those were days of foreigners' rule.

**Pandit Thakur Das Bhargava:** I have read from this debate of 1950 and yet it is not appreciated.

**Shri Sidhva:** He wanted to destroy foreign rule.

**Babu Ramnarayan Singh:** This is worse than foreign rule. (*Interruptions*).

**Pandit Thakur Das Bhargava:** Mr. Sidhva has not understood really what was the matter before the House when hon. Shri Gopaldaswami Ayyangar said this. We wanted this provision to be enforced against our own nationals. Without understanding he should not get up and have a dig at me. He has not realised the significance of what hon. Shri Gopaldaswami Ayyangar said. Even the property of a foreigner cannot be forfeited.....

**Shri Sidhva:** I said that it was foreign rule that we were out to destroy then.

4 P.M.

**Pandit Thakur Das Bhargava:** Mr. Sidhva surely knows there was no foreign rule in the country in 1950. Mr. Gopaldaswami Ayyangar continued (I shall just read a few more sentences, Sir):

"According to the established ideas of criminal jurisprudence, forfeiture of property is a kind of punishment which should not be provided for offences even of a much graver character involving much graver danger to the security of the State than what the Bill under consideration contemplates. My point is this. I said that all the reputation I may have for reasonableness might be lost. All my reputation, all that I have learned of criminal juris-

prudence and all that I have administered as criminal law in this country, will be lost if I gave in on this point. So, when my hon. friend Mr. Chaudhuri asks that time should be given for enabling hon. Members to have an opportunity of negotiating with me for the purpose of persuading me to accept this amendment, I am afraid he is only actuated by a forlorn hope. There is absolutely no possibility of my agreeing to accept this amendment.

In the concluding part of the speech he gave expression to his opinion in still more emphatic words:

"Here it is merely a case of a person harbouring an offender under the Bill. I have referred to the section in the Indian Penal Code which mentions of State prisoners and prisoners of war. If harbouring takes place in relation to those persons, our Penal Code does not provide for a punishment of forfeiture of property. It is an outmoded, ancient and thoroughly discredited doctrine that you should punish an offender with forfeiture of property. All that the Criminal Law is intended to serve is to impose a punishment which will produce the effect of deterring other people from committing the same offence. That is about all. That should be the ordinary purpose of a Criminal Law; and that would be satisfied by a punishment of imprisonment or fine or both. If you impose a punishment of forfeiture of property, that will affect a much wider circle of people than the actual offender himself, and it is not in an ordered, civilized society, a proper thing to inflict this punishment as a matter of course. Of course, I remember you, Sir, referring to some volume of opinion amongst Congressmen who have had to suffer imprisonment in jails, an opinion that a punishment of mere imprisonment will not deter them from seeking the jail again, but that punishment of forfeiture of property or even fine for that matter, might have a more effective influence on their conduct in relation to the law for the time being in force." etc. etc.

After reading this, I am fortified in the conclusion that not only in other countries but also in our country (by the Central Government passing Act XVI of 1921 and by our adopting this attitude in the Act of 1950, an act of very vital importance), forfeiture by way of punishment is unthinkable in the present circumstances. What will

be the effect of forfeiture on an ordinary press? As soon as a fresh security is demanded and a person does not give it his security is forfeited and after that he is ordered not to use that press. What is my proposal? My proposal is that after the second enquiry if a person behaves in the manner again let the Government take possession of that press, let the press not be allowed to be used, or if it is used let it be used with the permission of the Government. It is useless to suggest that for years a press may remain idle; in a country where there is so much illiteracy and so few machines are available I would rather like that the Government should take possession of that machine and use it for Government purposes for a year or two. It would mean that that man would be deterred for the time being and it would be a lesson for the keepers of the press that a person who behaves that way will get that punishment. It would be a good thing for the country too. Government itself is short of presses and it will be in a position to get its printing work done in that press, or even to get the printing work required by the Members of the legislatures done if not for others.

Sir, I am not proposing that that person should be crowned or that he should be offered flowers. I suggest that instead of permanent forfeiture you may have temporary forfeiture, or temporarily close the press. What happens in the case of a security? If the person behaves well after giving the security, there is a provision which the hon. Minister has kindly agreed to incorporate seeking to return the security after one or two years. We have put in an amendment to shorten the period. And if the security is returned, why cannot the press be returned after one or two years? Just as the security is returned for good behaviour, similarly if the press is not used for such purposes again there is no reason why the press also should not be returned. The Government does not want to penalise that man, condemn that man, but if it is the purpose of the Government to punish him it would be better, and the House would insist, that if punishment should come it should come in respect of the principal offences which he may have committed. Here it is not an offence but an "objectionable matter". In regard to "objectionable matter" you may do anything but not give such a hard punishment which is worse than the punishment meant for the most heinous offences enumerated in the Indian Penal Code.

Therefore, I very humbly again request the hon. Minister to kindly look into this question sympathetically and

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agree that whatever period he puts in he returns the press to the person from whom it was taken after some time so that in a case of injustice justice may be done, and in case the action is just then justice may be tampered with mercy and only such punishment meted out as is deserved and not more drastic. If a person abuses me I may have a right to beat him but not to take off his head. Here if a person has not behaved properly we should not deprive him of his livelihood. Sir, I have said these things once or twice before and I beg to be excused for the repetition, but I am speaking from conviction and would therefore again request the hon. Minister to kindly look into this question sympathetically.

**Shri Lakshmanan:** The proviso to sub-clause (2) of clause 6 says that the press shall not be disposed of within a period of three months from the date of the order of forfeiture and if the keeper of the press deposits the required amount within such period the press shall be returned to him.

It is common knowledge that when an order of forfeiture is passed the property right in the article vests in the Government and Government will be responsible for the custody and safe keeping of the press or part thereof which will entail some expenditure on the part of the Government because the press or its part will have to be removed to a safe place and if no safe place is available some building will have to be rented out by Government for which purpose Government will have to incur incidental charges. There is provision that if the keeper of the press deposits the bare amount of the security then the press shall be returned to him, but there is no provision as to payment of the incidental expenses that might have been incurred by Government. Therefore, I submit that my amendment must be accepted.

**Shri A. C. Guha:** My first amendment is separate from the other two amendments.

In part (b) of the clause it has been stated that "neither the said keeper of the press nor any other person shall make, or be allowed to make, a fresh declaration". The purpose of my first amendment is this: The keeper of the press may not be in a position to pay the security money and he may like to sell the press off. In that case the press may be closed for some time, and if there has been any *bona fide* sale or purchase then the new purchaser should not be made to pay the penalty for the offence committed by the previous possessor of the press. The clause as worded now will mean something like imposing a

vicarious punishment. Sir, I may refer to what happened in the Select Committee where also it was argued that the purchaser should have the knowledge that a certain security was demanded of the press and that that amount should be deducted from the payment, but the question is who is to pay that amount? I think the intention is that the old keeper of the press should pay the security; but if the new keeper commits any offence then the security of the old keeper will be forfeited although he will have no responsibility for the activities of the new keeper. If the new keeper is to pay the security, it would be the case of demanding security for a fresh declaration and a fresh press. According to the Bill, no security is to be taken from any press started anew. For the purchaser it will be a new venture and if the press after coming under his control has not committed any offence, that man should not be made to pay any security. If the idea is that the old keeper should pay the security before he is allowed sale of the press, then that money should be kept with Government and may be liable to be forfeited if the new keeper commits any offence for which the old keeper will have no responsibility. In both cases it would be unfair. Government should accept this amendment. In case it is a *bona fide* purchase, with the permission of the court the new keeper should be allowed to take a fresh declaration without paying the security previously demanded.

Then my other two amendments remain. Second is consequential on third. Sub-clause (2) says... 'when the magistrate is satisfied... he may declare the press or any part thereof to be forfeited to Government' and pending that order he would ask the keeper to show cause why it should not be forfeited. The purpose of the Bill, as Government have said repeatedly, is not punitive. Therefore, why should the whole press be forfeited? I have suggested that the security money may be converted into a fine of equal amount and that amount may be realised in the same manner as arrears of land revenue. If this amendment is accepted, then the previous sentence 'show cause why the press should not be forfeited to Government' will have to be changed. So I have suggested 'show cause why it should not be for the time being kept under the control of Government'. The previous speaker has spoken about the enormity of the punishment involved in forfeiture of the press. Forfeiture means making the person simply bereft of all means of livelihood. This is a punishment which I feel is barbarous for any civilised State to im-

pose. I hope Government will accept my amendments, which will not in any way affect the efficiency of the Bill.

**Shri Naziruddin Ahmad:** I submit that this clause relating to forfeiture is the most draconic, the most drastic, the most barbaric and the most uncivilised of all clauses. It is unknown to civilised jurisprudence. The great name of Dicey has been introduced for supporting it. If Dicey knew that his celebrated book will be utilised for this purpose, he would turn in his grave. Forfeiture is the most revolutionary kind of punishment. When the Penal Code was enacted in 1860 India was in a most barbaric condition. Do we now pretend that we are a civilised Government? Can we find a parallel for this law in any other civilised Government? I submit not. Under section 517 of the Criminal Procedure Code, as a result of the trial if there are any properties connected with the crime they may be confiscated, but the confiscation is confined to properties used for the purpose of the crime. If a knife is used for murder, it can be confiscated. If a *lathi* is used in dacoity, it can be confiscated. If counterfeit coins are uttered, the dies and the coins can be confiscated and if forged notes are printed, the notes and the implements of forgery can be confiscated. Here, you are creating an offence of mild character and for use of obscene language or criticism of a Government official or an indirect obstruction of food supply, you are providing forfeiture. We have agreed to no ceiling for security. A prohibitive security may be imposed, while the press may really belong to helpless women and children who would be deprived of their livelihood if the press is forfeited. It may be that the press is leased out and is used for printing a newspaper or book and those who have leased it out may be totally innocent of any offence being committed. The real offender is the anonymous writer. The editor, printer or publisher may not know much about it and much less the proprietor of the press who may be quite innocent. If the court orders security which is beyond the person to pay the result is the forfeiture of the press. This must have been known in the dark ages of which we have a distant memory. I think the words of Mr. Gopalaswami Ayyangar are full of wisdom and statesmanship and are worthy of being remembered, but at the time when they were read out I found some merriment and laughter in the House, as if these principles are some queer things. Nothing would be lost by omitting this clause. If we find that the press is really misbehaving, by all means punish the editor, printer and publisher, but why do you intro-

duce this draconic law? Government say that they do not intend to use this at all. Then what is the use of having it? Law making is a practical science. No law should be passed for which there is no need. I think no further argument is necessary to convince the Home Minister, if he is in a mood to be convinced. I would ask him to delete this clause which if accepted would make the law more bearable. He has conceded little gifts, but this is a real gift for the granting of which the country would be grateful and he would be remembered as having given us a handsome parting gift.

**Shri J. E. Kapoor (Uttar Pradesh):** Sir, I am constrained to say that clause 6 of the Bill, as it stands, if it is finally adopted in its present form, will go a long way to discredit the Government and this Parliament. Sir, after the long speech delivered by my hon. friend Pandit Thakur Das Bhargava, who has taken such a keen interest in this Bill, a speech which has been delivered with so much warmth and feeling, I do not think any hon. Member of this House who has an open mind on this subject will dare say that he does not feel convinced that clause 6 should not remain in its present form and must be suitably amended. But I do not know, Sir, which hon. Ministers occupying Treasury Benches have still any open mind on this subject or not. I wish they may have. If I venture to make a few submissions today, it is because I found yesterday that the hon. the Home Minister on one occasion at least showed signs of having an open mind and permitted us to interfere with the phraseology of one of the clauses of this Bill which was suitably amended in some respects. I hope, Sir, he will exhibit today the same open-mindedness and whatever may have been his views and feelings in this matter until now, after he has heard my hon. friend Pandit Bhargava and many others who I am sure are going to oppose this clause in its present form, I hope he may be prepared to agree to amend it suitably.

Sir, clause 6 of the Bill can be split up into two parts. The first part lays down that unless and until the security is deposited the press shall not be allowed to be used: it shall not be allowed to function. Well, I do submit, Sir, that reasonable provisions must be made to see that the person who is called upon to deposit security, should not be permitted to go on with the business of publishing anything until he deposits the security. That is one thing. But then at the same time to impose a penalty not only on

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the keeper of the press but also on the press itself appears to be hardly fair. The first part of it says that neither the keeper of the press nor any other person will be allowed to file a declaration and to use that press. I submit, Sir, this is hardly fair. Who is the offender? It is not the inanimate object, the press. It is certainly the keeper of the press who is the offender and it is him that you want to punish. Punish him by all means. He must be punished; he must be prevented from carrying on his nefarious activities. That is a laudable and necessary object. But then, while you do that, you should not inflict any penalty on the press itself as it were. Why do you not want that press to function if it can be taken over by somebody else, a perfectly respectable person, a perfectly innocent person, a reasonable person who will utilise this press in a perfectly legitimate and perfectly legal manner. Sir, it might be said that unless and until the security is deposited why should even another person to whom the press may be transferred be allowed to use it. I submit, Sir, your object is not to realise the security. Your object is not to realise money. You do not want to make any profit thereby under the provisions of this Bill. Your object is not to fill the coffers of the Government with the money that you want to have as security for even the security money is not yours. It is held by you for the time being and after some time you will have to give it back. You will be holding it only for some time. Your only object is not to allow that wicked person to carry on his nefarious activities. Prevent that by all means. Do not let him be the keeper not only of this press but also of any other press unless and until the deposit money is paid. As I interpret this clause, Sir, I think it would be open to the keeper of the press to purchase entirely another press, file a declaration and carry on his activities. That is my reading of it. I would be in complete agreement with the hon. the Home Minister if he prevents the keeper of the press not only from using this particular press, but also if he prohibits him from carrying on the business of keeping any other press until the security money is paid. I would be perfectly in agreement with him if he wants to have some such provision. But I do not agree to the provision that this press should not be used by some other person if he purchases it. This virtually means that it will not be open to him to sell this press because no person will purchase it. If it will not be open to him to make use of it.

The second part of this clause lays down that if unluckily, by any inadvertence, this press in respect of which security has been demanded is used for publishing even one small leaflet then the entire press is liable to be forfeited to the Government. With regard to the advisability, with regard to the propriety of forfeiting the entire property of the press, I need not say much, because much has already been said by my hon. friend Pandit Bhargava, and not only by him, but on a previous occasion by no less a distinguished person than the hon. Shri Gopaldaswami Ayyangar, who on that occasion seemed to carry the whole House with him. On that occasion I was one of those who had suggested when the Assam Bill was under consideration, that provision should be made therein for the forfeiture of the property of the person who harboured an undesirable immigrant from Pakistan. I was one of those who had wholeheartedly supported an amendment to that effect at that time. I then said that non-incorporation of such a provision therein would amount to an invitation to undesirable persons from Pakistan. That was my view then. But then I am always open to conviction. Though I felt very strongly on the point, when I heard the very eloquent and convincing speech of the hon. Shri Gopaldaswami Ayyangar I converted myself to his view and realised that the penalty amounting to forfeiture of property was a penalty which a civilised society should not except under rare circumstances agree to. Since then we have not ceased to be civilized. If anything our civilization has increased since then. We have become a little more democratic since then and as years roll by we shall be more and more democratic. It shall be an irony of fate that a thing which was considered to be absolutely bad, a thing which was considered to be barbarous, a thing which was considered to be affecting the reputation of the hon. Shri Gopaldaswami Ayyangar should today be considered to be a thing which would bring credit to the hon. Shri Rajagopalachari. I am sure if the hon. Shri Gopaldaswami Ayyangar were here today he would certainly have dissuaded his hon. colleague from the step which he proposes to take.

I, therefore, submit that this clause in its present form should not be enacted and penalty relating to forfeiture of the press must go. There are one or two aspects of the question which must be clearly understood. By forfeiting the press you will not only be penalising the person who is the

keeper of the press but many others. The value of the press may be very much more, may be ten, twenty or hundred times the value of the security. Is it good law, is it a reasonable law, does it stand to reason that for the sake of realising a small amount of security which, let it be remembered, is not in the nature of a fine even and will not go to the coffers of the Government, merely for the sake of realising a small amount of security you should forfeit the entire press the value of which may be ten, twenty or hundred times the value of the security? Does it appeal to reason, is it a reasonable and proper thing?

The other effect of it is this. Who are the persons who are benefited by the working of that press? Not only the keeper of the press; his wife, his children, his minor children. If you forfeit the press what do you do? You take away in some cases probably the entire property of the person. You deprive his wife and children of the only sources of income. On whom will they depend after this is forfeited? Admitting for the sake of argument that there may be some such stupid, wicked, almost idiotic person, or a mad person or a lunatic even who, not realising the risk and danger of this provision, would print something without depositing the security—suppose he is almost a lunatic and he does so—would it be fair that for this misdeed of that particular keeper of the press his wife, his children, all his dependents should be deprived, may be, of their only source of livelihood? Is that the intention?

Again, there is a third aspect of it. In some cases the keeper of the press may not be the owner of the press, or in some cases his financial interest in the press may be of a very limited extent. I know of cases where there are what we may call honorary-keepers of press. I know one or two such instances. The person who has filed the declaration has absolutely no financial interest therein. An obliging friend—I know one or two cases—lends his name and becomes the keeper of the press. What will happen? In this case who will be affected? I am just taking the reverse case. Previously I was taking the case of a keeper of a press whose means of livelihood will be taken away and whose wife and children will be very hard hit. Now I am taking the case of a keeper of a press on whom there may be absolutely no penalty at all. The press may be forfeited. The actual owner of the press will be hard hit, not the keeper of the press.

Take the case of a limited company as my hon. friend Pandit Thakur Das Bhargava points out to me, a press

belonging to a limited company. For the fault of the keeper of the press the entire body of shareholders will be penalised. Is that fair, I ask.

Take also the case of a press in which the keeper of the press has invested only, say, Rs. 1,000 and has borrowed another fifteen, twenty or twenty-five thousand rupees from an obliging friend, may be even from a bank. It may be a mortgaged property. I mean these are the various complications and the various aspects which have got to be carefully gone through and analysed. We have got to see what will be the incidence of this penalty. On whom will the incidence of this penalty fall? Not necessarily only on the keeper of the press. In the first case, on his wife and children. In the second case where it is a limited company, on the shareholders. In the third case, on the banker or the lender of the money with which the press has been purchased, on the banker with whom the press may be mortgaged. What is going to happen to the banker or the lender with whom the press is mortgaged? The entire press is forfeited to Government. What sin or offence has the poor banker or the friend who has lent the money committed? What will be his interest after forfeiture?

**Shri Deshbandhu Gupta:** Nobody will advance money hereafter.

**Shri J. R. Kapoor:** Yes. It comes to this that the business of a press will become such a risky business, such an unpopular business, such an untouchable business if I may say so that nobody will be prepared to advance any money for that business. Is that your intention? Must that be the role of a democratic Government in its relation to the press in the country? Do you want to make the business enterprise of the press to be so unpopular, to be so untouchable, to be so risky that no reasonable and prudent person who wants to invest his money would care to come out with a single farthing to invest in this business or lend money for carrying on this business? Is that your intention? I am sure it is not the intention of the Home Minister. The only reason that I can think of for his incorporating this provision is that he had not originally and initially thought of the far-reaching implications of this provision. Once he is convinced of it I have no doubt in my mind that reasonable as he always is—and I hope he will be reasonable on this occasion also—he will be prepared to suitably amend it.

I am not one of those who is opposed to the principle of this Bill. I am not one of those who is entirely op-

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posed to this Bill. If I may make a confession—even though I may offend the press—my view is that some legislation was absolutely necessary under the existing circumstances in the country, a legislation which should curb the nefarious activities of undesirable persons. I had no opportunity to speak on any previous occasion. If I had I would have said that I know of many cases where papers, and particularly vernacular papers, are being edited and published with material which is highly offensive, highly derogatory to the self-respect of the nation, scurrilous, full of obscene matter. If I had the opportunity I would have quoted any number of instances to show that a pretty large number of newspapers contains articles, matters, news and comments under various headings which are very objectionable, very obscene. I am definitely of the view that some legislation was necessary to court such activities but this legislation must be fair and reasonable. We should not err on the other side and while some of the papers are erring and certainly erring, the remedy is certainly to check their errors but we should not be erring on the other side of unreasonableness and undue severity. I, therefore, submit that this clause must not be allowed to be adopted in its present form but must be properly amended with two amendments. What the nature of the amendment may be, what exactly the words of the amendment may be, I am not very much concerned with that. The hon. Home Minister may himself apply his mind to these aspects of the question and draft a suitable amendment but that amendment must cover the two points, firstly that the penalty must rest on the keeper and it should not be shifted or tagged on to the press itself. That must be provided first in the amendment. The second thing that must necessarily be provided, even though the first may not be, is that the press should not be forfeited. The punishment may rest only on the keeper of the press. One suggestion has been made by my hon. friend, Mr. Guha that this security may be treated as a fine recoverable. I do not think it can be adopted exactly in that form because security is not a fine and only the security will have to be refunded and so it cannot be called a fine. The fine that we impose goes into the coffers of the Government, but the underlying idea or the principle of his amendment may be adopted and incorporated in a suitable amendment to the effect that even when the press is sold off, even then the amount of the security may be recoverable from

the keeper of the press, if he intends to restart his business with the help of another press. That means that this penalty must continue to be tagged on to the keeper of the press throughout his life and he should not be permitted to restart any other press even, unless and until he has deposited this money. This is what I have to submit, Sir, and I do hope and trust that this matter will not be lightly treated by the hon. Home Minister, for, as I have submitted that even those of us who are of my view that a legislation of this sort in a suitable form was necessary do feel very strongly so far as this aspect of the question is concerned. The hon. Minister would be carrying the House with him—I mean that section of the House—which has been throughout with him in the consideration and the enactment of this legislation. Therefore, this advice is coming to him, this view is being represented to him not on behalf of those who are opposed to this Bill root and branch but this advice and suggestion is being given to him by those who are almost entirely in agreement with him so far as the broad outlines and the necessity of this Bill is concerned.

**Shri Jajoo (Madhya Bharat):** I beg to move:

“That the question be now put.”

**Shri M. P. Mishra:** This is one of the very important clause of the Bill and it should be discussed at some length. The provision for forfeiture is one of the most important and rather contentious clauses of this Bill and I feel.....

**Mr. Deputy-Speaker:** Hon. Members are not in their seats. I was looking to see if Pandit Kunzru was there and not finding him, I allowed other hon. Members. Hon. Members who want to speak early must be in their seats, and try to take their chance and not wait until the last minute. The general impression is created that hon. Members are not much interested. I have allowed the opportunity to those gentlemen who were willing to speak. Other hon. Members gather in the House later on at the fag end.

**Babu Ramnarayan Singh:** I have been in my seat from the very beginning.

**Pandit Kunzru (Uttar Pradesh):** May I say in my defence that I was here when Pandit Thakur Das Bhargava was speaking and after him two persons spoke and they had amendments to move. My hon. friend, Mr. Kapoor was the only speaker that had not moved an amendment.

**Mr. Deputy-Speaker:** Mr. Naziruddin Ahmad did not move an amendment.

**Pandit Kunzru:** Therefore, it cannot be said that I was either absent from here for a long time or that I have waited too long.

**Shri M. P. Mishra:** Sir, in my opinion, the provision for forfeiture is the most objectionable matter in this Bill. There are three clauses under which there is provision for forfeiture of the press or part thereof. One is clause 6, the other is clause 9 and the third is clause 14. I would be happy if all these three were taken together. Under clause 6 if a press fails to deposit security money within the time limit and after this it prints something, it is liable to be forfeited. Under clause 9 a publisher has to pay the security money within a prescribed time and if he fails to deposit the security and then gets printed at a certain press its unauthorized news-sheets or newspaper, that press in that case also is liable to be forfeited. Then under clause 14 there is a provision that if there is a press which is unauthorized and it prints unauthorized news-sheets then in that case that press is also liable to be forfeited.

In my opinion offences under sub-clauses 6(2) and 9(3) are not such as to deserve such a drastic punishment. Of course with regard to clause 14, I understand that it relates in particular to underground press of either the Communist party or of some such other party which may have any underground press. With regard to these underground presses, I am not pleading that they should be treated kindly because an underground press is organized on the clear theory that they know the law of the land and in contravention of it, they organize an underground press. They print all sorts of seditious matter. I may say in a democracy one should obey even a bad law and wait till the time it is repealed but it is none of the functions of a citizen in a democracy to organize an underground press and circulate seditious literature and all that. With regard to clauses 6 and 9 the offence is not of such a grave character. There is a printing press and a security is demanded against it; the security is so heavy that the press is not able to deposit it. It may be that within the 21 days after the issue of the order there may be arrears of printing work to be done and the publisher or the keeper of the press prints them by mistake or under duress or otherwise under certain circumstances. Then on the next day the press becomes liable to forfeiture. I consider that this is something very drastic and not only drastic but much more than that. Similarly, under clause 9 the offence

is this that a certain newspaper has been asked to deposit a security and that paper has failed to deposit the security within the prescribed time, say, 21 days. If that paper is taken to a certain press and the keeper of that press is asked to print it, he may not be aware that a security has been demanded against it and he may not be aware that they failed to deposit it and if he prints it, I would call it a small offence. If the press is forfeited, I think it is not such an offence that he should deserve to be robbed of his entire press or part thereof which may form the basis of his livelihood. Under the circumstances, I would humbly urge upon the hon. Home Minister to look into cases coming under sub-clauses 6(2) and 9(3) if the offences are so heavy or so big as to deserve deprivation of owner's only means of livelihood, namely, the press. There is large number of people in our country for whom the press is just a business to carry on their livelihood. When we know that in so many other fields of crime and offences, forfeiture and confiscation of property is not the law—even in the case of blackmarketers there is not this provision—I think under clauses 6 and 9, this provision for forfeiture is colossal and it should be withdrawn. With regard to clause 14, I would suggest a change. I would like to recall the speech of my hon. friend Mr. Shiva Rao. At one stage he said that this Bill will be ineffective in dealing with those people who are deliberately out to defy the law, and deliberately out to overthrow the Government, whereas for those who are law-abiding citizens, who run the presses and newspapers, this will be a great handicap, and will be hanging like the sword of Damocles over their heads, and they will never be allowed to feel that for them there exists freedom of expression. With regard to such presses as are outlawed or are to be punished under clause 14, with regard to the underground presses and underground newspapers, I could understand this provision. I think even a more serious or drastic Act or Bill may be brought to deal with them. They are a different class altogether. It is good that we should separate them from the bulk of our newspapers or press or printing affairs.

In this connection, I am confident that our hon. Home Minister will give his thought and make a distinction between presses coming under the category of clauses 6 and 9 and underground presses coming under the category of clause 14.

**Pandit Kunzru:** I was not in favour of the forfeiture clause; but I did not know how impressive the case against

[Pandit Kunzru]

it could be till I heard the cogent speech of my hon. friend Pandit Thakur Das Bhargava. Forfeiture was a punishment which could be inflicted for certain high political offences and for certain crimes punishable with death. But, when the law has been so changed as to prevent the infliction of so severe a penalty even for such serious offences, how can forfeiture be justified in the present case? No one here sympathises with the breakers of laws. But, what we have to see is that the punishment is proportionate to the offence. If the keeper of a press does not deposit the security that he is required to deposit under clauses 4 and 5, he can be punished under this Bill in another way. If we turn to clause 25, we find that a person who keeps in his possession a press which is used for the printing of books or papers without making a deposit as required under clause 4 or clause 5, can be punished with fine which may extend to Rs. 2,000 or with imprisonment for a term which may extend to six months or with both. It is possible for the Government to resort to this method of punishing offenders. If forfeiture is not resorted to, it should not be supposed that the Government will be without any remedy, having provided an alternative remedy in clause 25. That the two punishments, that is the punishment of forfeiture and the punishment that could be inflicted under clause 25 are regarded as mutually exclusive is shown by clause 33 which lays down that the keeper of a press which has been forfeited shall not be punished under clause 25 and *vice versa*. Under clause 25, an offender can not only be punished with a fine, but also with imprisonment. I am sure that if the Government are able to show that a person has violated the provisions of clauses 4 and 5, that is, has failed to deposit the security demanded from him under these clauses, the court will not deal with the offence lightly. The offender may both be fined and imprisoned. Is not this punishment enough?

Apart from this, it seems to me that so long as the security is not deposited, no man can use the press without incurring the punishment under clause 25. If, therefore, Government make use of clause 25, they can punish not only one man who makes use of the press, the security demanded in respect of which has not been deposited, but any other person that uses the press for printing books or papers without making the deposit required under clauses 4 and 5. The remedy is therefore effective. Had

this remedy been of a slight nature, I could have understood the opposition of the hon. Home Minister. But, the language of clause 25 makes it clear that the press can in no circumstances be used for printing anything without incurring the penalty laid down in clause 25. I think, therefore, that the Government ought to be satisfied with this penalty and not resort to the penalty which, as our hon. friend Pandit Thakur Das Bhargava has told us, was described by the hon. Mr. Gopalaswami Ayyangar as unsuited to well ordered and civilised society.

5 P.M.

I know that the penalty of forfeiture can still be inflicted in certain cases. I need not refer to them because they were referred to by my hon. friend Pandit Thakur Das Bhargava. But the cases in which forfeiture is still possible are of such a serious character that their analogy cannot be used to justify the punishment of forfeiture in the present case.

Again, Sir, if Government desire to realise the fine, I meant to say, if the fine that is inflicted on a person under clause 25 is not paid by him, such portion of the press can be sold as might be necessary to realise the fine. Or clause 25 may be so changed as to make the person who fails to pay the fine liable to further imprisonment I personally think, Sir, that the clause as worded, is sufficient to meet the needs of the case.

**Shri J. R. Kapoor:** The fine may be the first charge on the press.

**Pandit Kunzru:** Obviously the Government have the power to realise the fine by selling a part of the press.

It has been pointed out that the penalty of forfeiture is not merely very heavy, but also not in keeping with the sentiments in the more advanced countries. The severity of the punishment will be easily realised. If it was provided that the entire property of the keeper of a press should be forfeited for failing to deposit the security, under clause 4 or clause 5, everyone here would have regarded it as open to serious objection. But the press may, in certain cases, be all the property of the person concerned. Now, is it right to deprive a man of his entire property for an offence that he may have committed? In accordance with modern notions of penology, this would be only another way, and a very good way, of manufacturing criminals; not a way of reforming criminals or preventing crimes.

**Shri Rajagopalachari:** Sir, I will have to deal with these points and so some time may be left for me also.

**Pandit Kunzru:** I am strongly of opinion, therefore, that the punishment of forfeiture should be done away with. Government should either be content with the penalty that can be inflicted under clause 25, or they can even strengthen clause 25 by providing for a higher fine. But I do not think that there is any justification for forfeiture. If Government are not satisfied with this, they can act in accordance with the views expressed by Mr. K. Srinivasan and Abdullah Brelvi in the Press Laws Enquiry Committee. They suggested that a press may, in certain eventualities, be temporarily closed down. The Home Minister has not accepted their advice.

**Shri Deshbandhu Gupta:** That is the compounder's advice.

**Pandit Kunzru:** But he has not stated why he has rejected it. My hon. friend Shri Deshbandhu Gupta says that it is the .....

**Shri Deshbandhu Gupta:** I was only quoting the Home Minister who described or styled it as the compounder's advice.

**Pandit Kunzru:** Well, I do not understand what the Home Minister meant by using those words. If you deprive a man of the means of earning his livelihood even for six months, is that a light punishment? I do not think Sir. And I think this is a fairly severe punishment and if Government think that in certain cases this may not be enough, they may take power to close the press down for a year or even for a somewhat longer period. I think this punishment will suffice for most cases. This punishment and the punishment provided in clause 25 which will be treated as alternatives under clause 33, will, I think, be sufficient to provide against the evil that the Home Minister has in view. I therefore strongly support the amendment moved by my hon. friend Pandit Thakur Das Bhargava.

**Shri Jajoo:** Sir, let the question be put.

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

**Babu Ramnarayan Singh:** Sir.....

**Mr. Deputy-Speaker:** No, I have stood upon by legs.

**Babu Ramnarayan Singh:** Sir, I have to make a submission to you Sir, that I have.....

**Mr. Deputy-Speaker:** No, I am not allowing any one. I am putting the question.

**Babu Ramnarayan Singh:** Sir, I got up several times and you saw me also, but .....

**Mr. Deputy-Speaker:** I am not going to allow the hon. Member to .....

**Babu Ramnarayan Singh:** Sir, can I not speak Sir? Is it a conspiracy against me that.....

**Mr. Deputy-Speaker:** Order, order. I am satisfied that there has been sufficient debate on this clause and....

**Babu Ramnarayan Singh:** You are easily satisfied.

**Mr. Deputy-Speaker:** Order, order. I am not going to allow every hon. Member to speak on every Bill and every clause of a Bill. Otherwise no Bill will ever be completed. No new points are raised, no new arguments produced. This is only trying to get an opportunity to speak. I cannot oppose the process or the procedure adopted in the House.

The question is:

"That the question be now put."

The motion was adopted.

**Shri Rajagopalachari:** Sir, so much spirit has been put into the arguments advanced in connection with the clause with which we are dealing that I think it is necessary to recall the exact context of this clause. This clause comes after clauses 4 and 5. Clause 4 deals with an enquiry when for the first time the objectionable matter is taken to court. Clause 5 deals with an enquiry when the same person has again published or printed the objectionable matter and an order has been passed after enquiry by the court as to the security.

Now clause 6 says:

"Where the keeper of a press is required under section 4 or section 5 to deposit any amount as security and the deposit is not made within the time allowed,—"

he has not deposited the security, then what shall be done? That is the question dealt with in this section.

"the declaration made by the keeper of the press under the Press Registration Act shall be deemed to be annulled."

because he has not fulfilled what has been laid down by the court and so

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he cannot use the press for the purpose in connection with which the security was demanded. Then in order to prevent the use of the press it goes on to say:

"notwithstanding anything contained in the Press Registration Act, neither the said keeper of the press nor any other person shall make, or be allowed to make, a fresh declaration before a magistrate"

so as to get entitled to use the press under the ordinary press law. An order has been passed by the court but he has not carried it out. Unless that amount was deposited the press would not be allowed to be used for the printing or publishing of any paper or newspaper till the deposit has been made.

If we assume for purposes of this clause that the order under clause 4 or 5 was proper and justified (as we must assume when we deal with clause 6) when we consider the order proper, good, right and should be carried out and when we deal with a person who fails to carry out that order of the court, the fact that he cannot use the press without fulfilling that order should not put hon. Members into such indignation, as I notice them to be in this connection.

If we do nothing more than say that he should not use it, it becomes a pious declaration. So later it says:

"When any press is used in contravention of clause (c) of subsection (1), any magistrate may, on a complaint in writing made to him in this behalf by the competent authority, direct the keeper of the press to show cause why it should not be forfeited..."

The man can come and say that it was for such and such reason that he was unable to pay or that the press was used without his having paid the deposit and the magistrate, if he is satisfied can pass an order.....

**Shri. R. K. Chaudhuri:** Sir, on a point of order.....

**Shri Rajagopalachari:** Questions will be answered by me as I proceed. I will not leave anything in confusion, if I can at all avoid it. Later if hon. Members ask questions I shall answer them. I am sorry I am in this mood, because we have gone back again into one hour speeches and that is why I have to take some time to reply. In all my twenty years at the bar I had never been in such a difficulty in

arguing on account of the confusion created by the arguments on the other side. I am dealing with such a difficulty and I must have time.

Further on it is laid down that if the press or part thereof was forfeited or has been ordered to be forfeited and the person ordered to make the deposit has not shown cause for not doing it, then too forfeiture ordered will not be carried out. There will be no sale or disposal of the press for three months, so that the man has time to pay the amount which has been ordered by a regular judgment of the sessions court to pay. If then he deposits the money, the press shall be returned to him and if not, the order of forfeiture stands. This is the provision.

I ask hon. Members to consider whether there is anything extraordinary in this. I will come at the end to the point which Pandit Bhargava and Mr. Kapoor referred to at great length and very plausibly too, and which was confirmed by Pandit Kunzru. I will proceed with it as I understand the case.

Clause 6 is proposed to deal with a person who has been twice tried before and then ordered to deposit a security. He has been once completely tried and has been ordered to give a security and if no satisfactory reasons are given by him as to why he has not made the deposit, then he is asked to show cause why a part or the whole of the press should not be forfeited. (Interruption.)

There is no confusion in what I have said so far and I shall see if I can avoid confusion as I proceed.....

**Pandit Thakur Das Bhargava:** I am not interfering with the speech.....

**Mr. Deputy-Speaker:** It is entirely open to the Minister to give way or not.

**Shri R. K. Chaudhuri:** We always give way to the hon. Minister.

**Mr. Deputy-Speaker:** For purposes of a proper debate I would appeal to hon. Members not to interrupt the hon. Minister. Hon. Members evidently seem to be anticipating some of the points of his reply. Let the hon. Minister go on and as he said if there are still any doubts, hon. Members may put questions and the Minister may reply if need be.

**Shri Rajagopalachari:** I plead inability to deal with the matter if I am interrupted. I am not arguing a simple fundamental principle: I am trying

to explain a complicated set of arguments which have been put forward against the clause and therefore I would beg of hon. Members to allow me to proceed in as clear a manner as I can at the outset and then I shall take instructions from Members to make matters clearer if necessary.

So we are dealing with a person who has refused to deposit the money and is unable to show cause why he did not obey the order of the court and he is given further three months *locus penitentia* time to carry out the order of the court and if he does not do so, then the press is forfeited. There is nothing extraordinary in this. Supposing a fine had been ordered by a magistrate. Even he has the power to attach the property of the person concerned and recover the fine and if the fine is not paid in spite of all that, he has the power to sell the property attached. We can call it forfeiture if you like but it is exactly the same thing in substance, which an ordinary magistrate can do.

Let us see what the proposals made are, before I come to the subject matter of the great indignation on the part of some Members.

I will now deal with some minor matters.

Mr. Bhatt moved an amendment to part (b) of sub-clause (1) that after the words "(Press Registration Act)" the words "within six months, etc." be inserted.

श्री भट्ट : मैं बहु अमेन्डमेन्ट प्रैस नहीं करता ।

[Shri Bhatt: I do not press this amendment.]

Shri Rajagopalachari: Then there has been a proposal that the words "nor any other person" in line 2 of that part (b) of sub-clause (1) should be removed on the basis that a *bona fide* purchaser may be prevented. I shall deal with *bona fide* purchasers at this point. If a fine has been ordered in connection with a particular business or property there is some relevancy in the connection between the two cases. Here is a case where a security has been ordered to be deposited by the person who owns a press. If he does not pay it but proceeds to sell the press to another person, calling him a *bona fide* purchaser, are we to be at his mercy. The order for deposit that has been passed should attach to that property like any other covenant which attaches to a land or property. If he proposes to dispose of his property and cheat other people does he be-

come *bona fide*? He is not *bona fide* and therefore the law cannot now be amended to suit such persons. He sells and takes the money from the purchaser and it is argued that the purchaser is *bona fide* but is the man who sold the property *bona fide*? If he were *bona fide* he would have paid the money but instead of paying the money he sells the property. If there is a liability attached to a property the liability goes with the property when it is sold. The man who buys the property will pay off the liability and give the balance to the person who sold the property. We are dealing with an abstract case of Re. 1, Rs. 100 or Rs. 1,000 and let us not spoil the argument by imagining a gross harsh or terrible case. Here is a press worth Rs. two lakhs which has been ordered to pay a security of Rs. 2,000. He sells the press to a third person while the order of the court is pending and while he has not paid the security. Is there anything outrageous in asking that the man who buys the press should pay Rs. 2,000 and pay the balance to the person who has "*bona fide*" sold the property?

It is said that "a magistrate" should be changed to "sessions judge." Here is a case where we do not inquire into the objectionable matter, where we do not inquire into any complicate issue; we are only inquiring into one fact: whether the person who has been ordered to pay a deposit had good reasons not to pay, or whether he should be given more time. That is the only issue. Am I to ask Parliament to accept a Bill in which I must send all these cases to sessions courts and High Courts? Here is a case where a sessions judge has already passed a decree after hearing both sides and after every procedure being followed, and the person concerned refuses to pay what he has been ordered to pay as deposit. Not only that; he refuses to use the press without making the payment. Surely a magistrate is good enough for that purpose—a magistrate is entrusted with very much more complicated issues to inquire into. That is why in clause 6 we did not bring the sessions judge in but the magistrate is there.

A further amendment is proposed lower down saying that the press shall not be used for the printing or publication of any book or other document "without the permission of the Government." I think Pandit Bhargava did not move that amendment. There is no object in that amendment.

**Pandit Thakur Das Bhargava:** I moved all my amendments.

**Shri Rajagopalachari:** It says that the press shall not be used for printing or publishing of any document without the permission of the Government until the deposit has been made. The idea is that even where a man has not gone through the course of a trial and he has been ordered to make a deposit on account of objectionable matter and he has not paid the deposit, he may take the permission of Government to print a particular thing here and there. Not that it could be included, but even if the words were included in the Bill it would be totally outside the meaning and context of the Bill. Anything could be done by any person if he takes the permission of the Government—there is no question about it. Therefore it need not be introduced here.

Then it was proposed that the non-saleability of the forfeited press or part thereof may be extended to six months instead of being for three months. That is to say, this gentleman who has been unable to carry out the command of the court should be given six months more time so that he may think it over and pay. That is a minor matter. I think under all the circumstances of the case three months should be quite enough and six months should be extraordinary. On the contrary, I would say it would be bad because we cannot allow machines to go on rusting without any care being taken for months together. Somebody or other must look after it. Here is a man who refuses to look after it by paying the deposit which he has to pay, here are people who are given notice and who refuse to pay the deposit, and you must give them a further time of six months? I think it is unreasonable. We can make it one year or two years, it is open to Parliament to put it at any period, but there must be some reason about it, and if a property has not been sold but kept, though it has been forfeited, I think the shorter the time the better; there would be thefts, there would be difficulties and all kinds of trouble.

Then Pandit Bhargava argues that the particular part that is used to print the objectionable matter shall be forfeited. Who is to find out which part has been used in that manner? Are we to allow him to go on in spite of the order of the judge and are we to adduce evidence before the magistrate as to which part had been used and that part alone should be earmarked for being forfeited after

all this procedure? Strange amendment!—that is all that I can say about it. It cannot be accepted, I submit, by me, and I hope it will not be accepted by the House.

Another amendment has been proposed by Mr. Guha—behind it is a good thought, but it is just not possible. He says, "Convert security into a fine and attach this property as if it were for a fine; then there would not be all this argument". If it were practical it could be done, but unfortunately security is not a fine and we cannot simply convert it into a fine by a process of this kind. We cannot treat it as a fine where it is a security, to be received, and kept in deposit and returned after a certain period.

**Shri A. C. Guha:** My amendment does not apply when the security is paid but when it is not paid and the press is going to be forfeited.

**Shri Rajagopalachari:** I quite understand. If the security has been ordered by the court and intended to be paid and to be kept and returned later, we cannot convert that security into fine by a process of legal phrase like this in the middle of a clause. We cannot impose a fine for the first time upon a person and attach property as if it were for a fine ordered by a magistrate or by a court. It is not legally practicable and I do not think the legal advisers of the Government would allow such a procedure to be followed. It is impracticable.

Another very small matter, Mr. Lakshmanan points out that during this period of non-user Government would incur expenditure on the press. It is true but nothing can be done by Government unless they go through some loss. I think after the arguments advanced about forfeiture, the proposal that we should introduce this amendment about charges incurred would be irritating, almost, to Parliament.

I would have to deal with the main question as to the barbarity of the proposal to impose forfeiture under clause 6. Alternatively, Mr. Bhargava proposes various ways of dealing with it. One is that the press may be temporarily closed, another is, it may be called temporary forfeiture and all that, and consequential amendments to return the property after the temporary period is over. If we could adopt those things effectively I do not think I would have objected. But it is not possible, it is not convenient nor is it called for, in my

humble opinion. In the case of a person who has gone through the enquiry under clause 4 or, under clause 5 and who still refuses to pay and who proposes not to pay, even if it is forfeited, within the three months which is allowed to him. I do not think that any such procedure is necessary in connection with this. The effect is practically the same. What is "temporarily closed"? It only means this: here is this forfeiture proposal, he is given time to pay before the forfeiture order, he is given time to pay after the forfeiture order. What else is it but equivalent to what has been proposed as "temporary closure"? The "temporary closure" that Mr. Bhargava proposes must be clothed in suitable legal language; if clothed in suitable legal language it would come exactly to the procedure that I have now described and nothing else. If it is temporarily closed for a period, then does it mean that he has not to pay security thereafter? He has to give security thereafter, and therefore it comes to the same thing as is proposed in this clause.

Going back to 1921 and to quotations from hon. Shri Gopaldaswami Ayyangar's remarks about forfeiture being barbarous, Pandit Kunzru was deeply impressed—so was I, but I was at the same time thoroughly amused, let me confess. In the Indian Penal Code, for the waging of war (under section 121) and under section 122 for collecting arms and ammunition for waging war and for preparing for war against the sovereign power of India, it was provided that not only transportation for life may be given but all the property of the accused person may be forfeited. In the old law of England too there was sequestration of property against rebels and against people who waged war against the King. It is certainly barbarous: not only hanging a man or transporting him for life but also taking away all his property, not only imposing capital punishment on the man or life-long imprisonment, but also depriving the family and his inheritors of all his properties—that was what was considered barbarous. The whole argument is curiously reversed—and here it was that I was amused and confused, let me confess—when Pandit Kunzru put it to me: "In such a serious case forfeiture was condemned; why do you allow forfeiture for a minor thing like this"? I say this is utter confusion of argument. A fine is imposed and property is attached for the fine. It is forfeiture of that property. Are we to get indignant about it, saying Gopaldaswami Ayyangar said that and Sapru said that

and therefore there should not be forfeiture of property, because the fine is not paid. Let the fine not be paid. Why commit this barbarous offence of forfeiture of property? I submit that I have not recovered from the confusion that was created by the argument. Then again the contention is that when hon. Shri Gopaldaswami Ayyangar was faced with a hot amendment that not only should undesirable immigrants be sent away from Assam but some property should be forfeited, he said something. I admit I am not as good a man as Shri Gopaldaswami Ayyangar. But I too, bad man as I am, would have been horrified at the proposal. I too would have said that is wrong. You are sending away the man. Why do you want to forfeit his property? You are punishing the man with capital punishment. Why forfeit his property also? It is barbarous. But here what is it we are dealing with? Here is a gentleman who has committed the offence, either under one or the other of clauses which we have passed. Here is a gentleman who owns a big press and who has committed that offence. But whether he is innocent or not, the court has found him guilty of that act so to say, that is to say, the matter is objectionable and he has printed it and he has shown cause and the court has found that he should be fined Rs. 500. Hon. Members are fond of saying Rs. 25,000. I am entitled to say Rupees 500. Everyone of us has got the right to assume an amount. The court has considered the case and has ordered a suitable security to be deposited. I stand on that and say it is a suitable security. You assume in the argument that something extraordinary has been done; something wrong has been done by the sessions judge. Why should I assume when I deal with clause 6 that something wrong had been done under clauses 4 and 5? Clause 6 is not by way of appeal against the wrong done by clauses 4 and 5. Clause 6 is intended to execute what is laid down in clauses 4 and 5. I have to assume that under clauses 4 and 5 the judge thought, weighed, considered and passed a suitable, proper, just order. If this gentleman who has been found to have printed that matter refuses to pay, he is given time—twenty-one days and also if necessary extended time. He refuses to pay. Not only does he refuse to pay. He uses that press and he wants to say he is treated barbarously by the Government if the press is taken, as if all his properties were forfeited as under some old law in the case of the rebel who is hanged.

Then Pandit Kunzru came with his most ingenious argument, if I may

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say so. He says it may be all his property. True. Have I not seen in the course of my practice a very poor man fined Rs. 20 and it was all his property? His house, his hut, his pots are removed. I have known of murder committed when the pots were removed as a result of a fine of Rs. 20. Surely that man was not guilty of murder under the circumstances, when all his property was taken. It may be small: it may be big, but it may be all his property or it may not be. But what is it here that we are dealing with? Here is a press about which enquiry has been made, in connection with which and in relation to which certain acts have been committed and the court has heard all sides and has said, 'Pay so much' and he does not pay and he uses the press. What are we to do with him? Are we to say that the law cannot be executed—our hands are tied down and we cannot do anything, because the alternative is to take away that press which may be his all? It is not generally his all, let me tell hon. Members. No man puts his all in such things and then takes the risk of printing such matter and then is unable to prove his innocence. We cannot assume all kinds of impossible things and then judge the propriety of the clauses or the terms of the clauses. Let us take the thing as it is. Here is a person who has failed to discharge the duty cast on him by order of the court. How shall we deal with him? The least we can do with him is to give him sufficient time. Let him be asked twice, thrice. If he does not pay, then let us proceed. Without a thought I added in the Select Committee the words 'or any part thereof' because the forfeiture should be commensurate with the amount that is to be recovered. So I said, either the whole or any part thereof. Surely, I did not expect Pandit Bhargava to come round here and say the particular part that is guilty of the printing should only be attached.

**Pandit Thakur Das Bhargava:** I said it then also.

**Shri Rajagopalachari:** I am sorry he said it there, but I think I was deaf or oblivious of the matter, but here in the House I am able to hear it through the loudspeakers and it does appear to me to be a very strange suggestion.

About this question therefore of the terrible character of the punishment there is utter confusion. In addition to death, transportation for life and

such like punishments, when forfeiture of property is ordered it is admittedly a thing that is out of date and it is removed from the Indian Penal Code and when it was suggested in connection with our difficulties with our neighbour Pakistan that property should be forfeited, Mr. Gopaldaswami Ayyangar rightly said it was barbarous and he was not going to admit such a thing. But here there is nothing like that. This is really not a case of a fine for which we can attach property. It is a case of security being demanded and the thing being connected with that security. We are dealing with the thing which he uses in spite of the order that has been made. It is more in the nature of a mortgage or security or charge. If therefore security has been ordered to be deposited in connection with a press, the thing is charged on the press and if he does not pay the press has to be foreclosed like any other property, or any part of it, which is commensurate with the amount and the rest is given back to him. Then too time is given to him so that it may not be divided, cut up and to pay the amount and take back the property as a whole. I submit there is nothing wrong, nothing unjust in this clause. If this clause is removed, we take away all sanction behind clauses 4 and 5.

The last point raised by Pandit Kunzru was that you have clauses 25 and 26 where you can prosecute and get a man punished for disobedience or contravention of the things with which we have dealt in clause 6. True. But it is provided as a safety valve, if I may say so. In simple cases, ordinary cases, where a small amount is due and where there is not so much contrariness on the part of the person concerned he may be prosecuted under section 25 or 26, but then Pandit Kunzru himself says that it may not meet with the magnitude of the case. So he says: increase the fine if you like from Rs. 2,000 to any other amount. But then it means that we will have to put even such a case before a sessions court. No magistrate could give a fine beyond a certain amount. Therefore, it comes to this that you want to take away or curtail the rights sanctioned by clauses 4 and 5. That is why I could not accept it as a complete substitute. I put it down as an alternative, so that it may be seen in each case whether it is worth while to proceed under clause 6 or under clauses 25 and 26. We are saying that instead of merely warning, he may be warned in a concrete manner

that unless he does so and so, he will be dealt with hardly. Therefore, I submit that clause 6 as it stands is quite sound and no amendments are suitable.

I am sorry Shri Rohini Kumar Chaudhuri is not here. He was constantly wanting to ask me questions.

**Mr. Deputy-Speaker:** - Obviously he is thoroughly satisfied.

**Shri Deshbandhu Gupta:** Part (c) of clause 6 says that the press shall not be used for the printing or publication of any newspaper, news-sheet or any other document unless the deposit has been made. May I know from the Minister of Home Affairs what prevents him from extending this very clause and saying that until the deposit is made or if it is not made before the time-limit expires the press will be closed. If that is done, the question of forfeiture will not arise.

**Shri Rajagopalachari:** That only means this, that without using the word 'forfeiture' and without making any use of this valuable property, I simply kill it so to say and for an indefinite time it has to be left like that. I do not think that would be a civilised way of dealing with it.

**Shri Deshbandhu Gupta:** I want to know whether the intention of the Government is only to realise the amount of security or anything more. If it is only the realisation of security, it should be made clear.

**Shri Rajagopalachari:** It is clear.

**Shri Deshbandhu Gupta:** It is not clear.

**Shri Rajagopalachari:** If it had not been clear, I would not have been so clear in my defence. Really, honestly I say it is perfectly clear that the amount has to be paid as a deposit only and not as a fine.

**Mr. Deputy-Speaker:** Further, there is the period of three months more given.

**Pandit Thakur Das Bhargava:** When he was referring to the Assam question and Shri Gopalaswami Ayyangar's statement, the hon. the Home Minister was under the impression that the forfeiture was to be made in respect of the property of the person who was sent to Pakistan. His presumption is wrong, because the forfeiture is of the property of the person who harboured the undesirable immigrant.

**Shri Rajagopalachari:** The hon. Member is only arguing, which he has no right to do by way of interruption.

**Mr. Deputy-Speaker:** The substantial portion of the argument of the hon. the Home Minister is that when a fine is imposed and in execution of it property is attached, it cannot be called forfeiture. Likewise here a security is demanded and if the security is not deposited, the mode of collecting that security is taking over possession of the property. Within a further period of three months if the security is not deposited, the property will be sold. Incidentally he referred to Assam, but that was by the way.

**Pandit Thakur Das Bhargava:** But that was a misstatement of facts on the part of the hon. Minister.

Is there any provision of law, any provision in the Criminal Procedure Code whereby a security can be recovered like fine?

**Shri Rajagopalachari:** There is no provision of law, when a person is not fined, or a decree is not passed against him, when a person is only asked to deposit a security, by which we can recover it. Therefore this provision has been made.

**Mr. Deputy-Speaker:** I shall now put the amendments to the vote of the House.

The question is:

In part (c) of sub-clause (1) after "document" insert the following:

"without the permission of the Government".

The motion was negatived.

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

In sub-clause (2) after "it should not be" insert "temporarily".

The motion was negatived.

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

In sub-clause (2) for "should not be forfeited to Government" substitute "should not be temporarily closed".

The motion was negatived.

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

In sub-clause (2) after "any part thereof" insert the following:

"proved to have been used for the purpose of producing the objectionable matter".

The motion was negatived.

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

In sub-clause (2) for "to be forfeited to Government" substitute "to be temporarily closed for any period not exceeding one year".

The motion was negatived.

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

In sub-clause (2) for "to be forfeited to Government", substitute "to be temporarily forfeited to Government".

The motion was negatived.

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

In sub-clause (2) add the following at the end: "for any period not exceeding one year".

The motion was negatived.

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

In the Proviso to sub-clause (2) for "so forfeited" substitute "so temporarily closed".

The motion was negatived.

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

In the Proviso to sub-clause (2) for "so forfeited" substitute "so temporarily forfeited".

The motion was negatived.

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

In the Proviso to sub-clause (2) for "of the order of forfeiture" substitute "of the order of temporary closure".

The motion was negatived.

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

In the Proviso to sub-clause (2) for "of the order of forfeiture" substitute "of the order of temporary forfeiture".

The motion was negatived.

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

To part (b) of sub-clause (1) add the following proviso:

"Provided that after a period of six months, in case of a bona fide sale, the purchaser with the permission of the court, may be allowed to have a fresh declaration without the payment of the security demanded previously."

The motion was negatived.

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

In sub-clause (2) for "be forfeited to" substitute "be for the time being kept under the control of".

The motion was negatived.

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

In sub-clause (2) for "declare the press or any part thereof to be forfeited to Government" substitute the following:

"declare the security amount to be converted to a fine of an equivalent amount to be realised as in the case of revenue arrears".

The motion was negatived.

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

In the Proviso to sub-clause (2) after "required amount" insert the following:

"and such further amount as may be ordered by the magistrate towards the incidental charges if any incurred in connection with the removal or custody of the press or part thereof".

The motion was negatived.

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

In sub-clause (2) for "any magistrate" substitute "a sessions judge".

The motion was negatived.

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

In the Proviso to sub-clause (2) for "three months" substitute "six months".

The motion was negatived.

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

In part (b) of sub-clause (1) omit "nor any other person".

The motion was negatived.

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

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

**Clause 7.—(Power to demand security from newspapers and news-sheets)**

**Mr. Deputy-Speaker:** Just as clauses 4, 5 and 6 related to demand of security and forfeiture of security in respect of newspapers, clause 7 relates to demand of security from news-sheets as relating to presses.

**Pandit Thakur Das Bhargava:** In the case of the newspapers the person who was proceeded against was the keeper of the press. In clauses 7 and 8 the person intended to be proceeded against is different.

**Babu Gopinath Singh:** I want to move my amendment.

**Shri Rajagopalachari:** If I may be permitted to deal with it I wish to say only a couple of words. The object of Babu Gopinath Singh's amendment is to put down the warning clause in this section as we have done in the case of the corresponding section relating to the press. The reason why the Select Committee agreed with me and did not put down the warning in the case of the publisher is this that in the case of the press warning is more right and proper and may be demanded because after all it is the printer. But in the case of the publisher it was not called for. In any just and suitable case the Sessions Judge would simply take no security and leave him. There is no question of warning.

**Mr. Deputy-Speaker:** So I take it that the hon. Member does not press his amendment. As there are no other amendments I shall put the clause.

The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

**Clause 8.—(Power to forfeit security or demand further security)**

**Mr. Deputy-Speaker:** Clauses 8 and 9 are corresponding provisions.

**Pandit Thakur Das Bhargava:** Clause 9 is not a corresponding provision.

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

"The clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill."

**Clause 9.—(Consequency of failure to deposit security)**

**Pandit Thakur Das Bhargava:** I beg to move:

In sub-clause (1) after "news-sheet" insert "without the permission of the Government".

**Shri Meeran:** I want to move my amendment. The proviso is similar to the proviso in clause 6.

**Shri Rajagopalachari:** For the non-disposal of the forfeited property, is it?

**Shri Meeran:** Yes. I beg to move: To sub-clause (3) add the following Proviso:

"Provided that the press or part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture and if the keeper of the press deposits the required amount within the aforesaid period the press or part thereof, as the case may be, shall be returned to the keeper of the press."

**Shri Rajagopalachari:** I am prepared to accept it.

**Mr. Deputy-Speaker:** Whenever the press is forfeited some time is given within which it ought not be sold, so as to enable the keeper of the press to redeem it by depositing the security.

The question is:

To sub-clause (3) add the following Proviso:

"Provided that the press or part thereof so forfeited shall not be disposed of within a period of three months from the date of the order of forfeiture and if the keeper of the press deposits the required amount within the aforesaid period the press or part thereof, as the case may be, shall be returned to the keeper of the press."

The motion was adopted.

**Pandit Thakur Das Bhargava:** In regard to clause 9 you will be pleased to see, Sir, that sub-clause (3) says:

"Where any press is used in contravention of sub-section (2), any magistrate may, on a complaint in writing made to him in this behalf by the competent authority, direct the keeper of the press to show cause why it should not be forfeited to Government, and, after hearing him and on being satisfied that there are grounds for passing the order, declare the press or any part thereof to be forfeited to Government."

Whereas in the case of a keeper of the press the security is demanded of him, and in the case of a publisher the same is the rule and the security is demanded of him, when it comes to the question of this (other) press without demanding any security the keeper of the press is called upon to show cause why his press should not be forfeited.

**Shri Rajagopalachari:** My friend is adding the words "without the permission of the Government". Is it not? In which line is it?

**Pandit Thakur Das Bhargava:** I am referring to sub-clause (3) of clause 9 wherein the requirement is that the keeper of the press that publishes the matter is called upon to show cause why the press should not be forfeited, whereas previous to this, in clauses 7 and 8, there is absolutely no mention of it. He is not called upon to furnish security or called upon to furnish subsequently any further security, and yet when the use of his press is made he is called upon to show cause why the press should not be forfeited. I do not know if I have made myself clear.

**Shri Rajagopalachari:** Is he speaking on his amendment?

**Pandit Thakur Das Bhargava:** I am speaking about sub-clause (3) of clause 9.

**Shri Rajagopalachari:** Is there any amendment about this?

**Pandit Thakur Das Bhargava:** There is no amendment with regard to this. I was submitting that whereas in clauses 4 and 5 security is demanded of the keeper of the press and in a certain contingency, when he fails to deposit the security, he is called upon to show cause why the press should not be forfeited, in clauses 7 and 8 it is not the keeper of the press from whom security is demanded but it is the publisher. And if the publisher does not give the security and yet the press is being used, then the keeper

of the press is called upon to show cause why the press should not be forfeited. This is the position. As a matter of fact the reason seems to be that when the press is being forfeited it is the keeper of the press who is in charge and not the publisher himself.

**Shri Rajagopalachari:** Perhaps I am labouring under a mistake or the hon. Member is. Let us clarify the position. Sub-clause (2) of clause 9 deals with this position where a deposit is required from the publisher no printing press, whether his own or any other, shall, after the expiry of the time allowed for the deposit which the publisher has to make, be used for the printing of that paper. If any press is used in contravention of that—it is a totally different press—a magistrate may on a complaint direct the keeper of that press to show cause why he has done that and why the press should not be forfeited. If he says "I did not know that" he will be let off. But if he is guilty of a contravention, he has abetted in the newspaper publisher doing something which he had been asked not to do. So the forfeiture.

**Pandit Thakur Das Bhargava:** That is exactly what I am submitting, that after the security has been asked of the publisher and he has failed to give it, if the press is being used in contravention while the security is not paid, it is the keeper of the press who is called upon to show cause why the press should not be forfeited.

**Mr. Deputy-Speaker:** One word. I myself am doubtful about it. May I ask the hon. Minister so far as sub-clause (3) is concerned whether it would not be covered by part (a) of clause 4? We will assume that part (a) of clause 4 is sufficiently wide and that any press which is used for printing any newspaper, news-sheet etc. will be covered—that is, that it will mean not only the press which is attached to the newspaper but also any press which does job work in newspapers and other things. Is not sub-clause (3) of clause 9 covered by part (a) of clause 4?

**Shri Rajagopalachari:** Part (a) of clause 4 deals with press that is used for the printing of objectionable matter. So they have to go into the issue of objectionable matter. Here we are dealing with a press which is used in contravention of sub-clause (2) of clause 9 where a deposit has been ordered and not paid.

**Mr. Deputy-Speaker:** Even there unless the newspaper contains objectionable matter, security would not be demanded.

**Shri Rajagopalachari:** In clause 9 the idea is that it is merely the refusal to pay the deposit. It is not a question of objectionable matter.

**Mr. Deputy-Speaker:** In the first instance no newspaper under this Bill can be asked to deposit security unless it contains objectionable matter.

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**Shri Rajagopalachari:** One issue of a paper contains objectionable matter and that is the subject matter of the enquiry and he is asked to give a deposit. We must execute that order just as we were dealing with the press that refused to pay the deposit. We are now dealing with a newspaper which refused to pay a deposit.

**Mr. Deputy-Speaker:** What I said was that instead of asking a deposit from the newspaper and the press publishing it and immediately asking it to be forfeited, why not the security be demanded from this press which publishes it and this process gone through?

**Shri Rajagopalachari:** When a press refuses to obey the order of the court, we can deal with the press but when a newspaper which is declared only as a newspaper and the publisher is there but he has no press or it is a press which stands in the name of somebody else as a keeper, he cannot frustrate the decree of the court by getting it printed in another press. That is the object here. The newspaper by itself is nothing; it is a daily issue and that particular issue is already finished. If it is said that thereafter he proposes to continue the paper in spite of the order of the court, we cannot recover it as a fine; he continues to print it.

**Mr. Deputy-Speaker:** When the press itself publishes that objectionable matter, the process of asking it to deposit security is there and if it is not doing so then the security is increased and if it does not pay that there is forfeiture. I think forfeiture is the remedy here.

**Shri Rajagopalachari:** Let us suppose a case where he has already been the subject matter of an inquiry and he has been asked to deposit and not run the paper and instead of not running the paper he runs it in a new press, which is what we have to deal with. The paper by itself is not a thing to be seized or done anything with. Either he must be put in prison or he must be fined. There is no provision for that. The question is that man simply cannot publish his newspaper even though he has been

ordered to pay a deposit and yet he wants to publish the paper but he uses some other press and carries on. The order will be frustrated. Whom are we to deal with? We cannot deal with the publisher because we cannot put him in prison for it.

Unless we tell all the presses in the country that this paper which is under a ban for the time being should not be printed by them, we cannot give effect to the decision.

**Shri Deshbandhu Gupta:** May I ask the hon. Minister whether it is clear to him that when a publisher who owns his own press has been asked to deposit a security and he does not deposit a security. He decides not to use that press but goes to a third party, who owns it, that third person does not know that a security has been demanded of him and he is duped. He only publishes the paper knowing in good faith that this paper is just as any new paper would be there and it is in that case the magistrate who can forfeit that press in the very first instance. The press does not belong to the publisher; the press belongs to a new man and supposing he is duped, what happens?

**Shri Rajagopalachari:** The question has been very properly put.

**Mr. Deputy-Speaker:** Why do you not go through all the processes?

**Shri Rajagopalachari:** The question has been properly put and that clears the position on both sides. The question itself assumes that if there was no *bona fides*, the procedure is quite only to be placed before the court, simple issue of *bona fides* that he did not know the order of the court has only to be placed before the court. That is all. He can say it is not an issue of an objectionable matter and I did not know the order of the court.

**Shri Deshbandhu Gupta:** In the case of a person who owns his own press if he commits the mistake, you in the first instance give him the latitude of giving a warning or deposit the security. Suppose it is a new press and the keeper of the press express his *bona fides* you do not give him that opportunity of being warned or security demanded but you straight-away forfeit his press.

**Shri Rajagopalachari:** You are not right in the assumption which you made just now in the case where a man owns his own press and in a similar context we have disposed of clause 6. Therefore if he is not given notice to show cause it is because he has got an order against him and he has only to answer the question of

[Shri Rajagopalachari]

forfeiture. My hon. friend is quite right when he says that if a person is innocent, he should be given an opportunity to say it but I only explained that the magistrate has the opportunity—since the issue is a simple one—of knowing the effect of an order of a court. It should be enough for the magistrate.....

**Shri Deshbandhu Gupta:** I am not clear. I want him to explain or realize this: Why should not this keeper of the new press be dealt with if he commits a mistake in this manner? In the first instance, he should be warned or a security should be demanded of him just as it was done in the ordinary course. It is a new press and a person comes and tells him that a particular editor issues or publishes that paper.

**Shri Rajagopalachari:** I agree that he should be satisfied that there are grounds for passing the order. I have no objection to add an alternative in the clause, namely "either warn or declare the press etc."

**Shri Deshbandhu Gupta:** Why not follow the same procedure?

**Shri Rajagopalachari:** In the case where a particular paper has been declared.....

**Pandit Thakur Das Bhargava:** I very humbly submit that you were pleased to let me speak on this clause. I placed some amendments before the House but before I am allowed to say a word, an argument is going on between the hon. Home Minister and my friend, Mr. Deshbandhu Gupta. I do not object to it. I do not grudge it but at the same time I am astonished to find that the Home Minister wants to make an amendment to the clause without hearing me, without hearing the House and without a word being said...

**Mr. Deputy-Speaker:** Why should there be so much heat exhibited? We are now trying to find a solution. The hon. Minister said it cannot be changed. Mr. Deshbandhu Gupta has been taking a lot of interest in this matter and he is entitled to speak on behalf of the press as well as other Members. When he made a suggestion the hon. Minister said that he can meet him half-way. The hon. Member may re-start from the place where he left off.

**Pandit Thakur Das Bhargava:** I do not object to my hon. friend's talking and to the hon. Minister's replying. I do not grudge that but before hon. Members put some amendments, I

would like to be heard so that hon. Minister can make necessary changes then.

**Mr. Deputy-Speaker:** He only wanted to say whether that would meet the situation and it does not mean that the hon. Member is ignored at all. Ultimately without the vote of a single hon. Member nothing will be passed in this House. At this stage he may start the discussion.

**Pandit Thakur Das Bhargava:** I submitted that we have adopted the procedure in clauses 4 and 5 whereby an offending press, the keeper of a press where any document is published or which contains objectionable matter, which is a very serious matter, that man...

**Shri Jnani Ram (Bihar):** May I know when we are going to close today?

**Mr. Deputy-Speaker:** The hon. Member may go on.

**Pandit Thakur Das Bhargava:**... can be proceeded against. The provision is that if the press is so used and it is proved on sufficient grounds that it demanded the security then even for the first time a warning is given. Then if the grounds are sufficient then the security is demanded and even after that security is demanded, if he has not put in anything he can stay at home and not care for the rest, so that nobody comes to him; it is not a fine which can be recovered. He says it is my business to put it or not. If I do not put in the security certain consequences follow. If objectionable matter is again published further security is demanded or previous security is forfeited if put in. The annulment of registration and by subsequent user forfeiture follows.

But what do we find in sub-clause (3) of clause 9? You will excuse me. Sir, if I use a phrase which I have sometimes used in this House:

अन्धेर नगरी चीपट राजा ।

टके सेर भाजी टके सेर खाजा ॥

[In a fool's domain there is no distinction between a criminal and a saint.]

In regard to this, what do I find here? What is the offence of this press? To all the principles by which we have been swearing in the Indian Penal Code and all the principles of criminal jurisprudence, we are saying good-bye. What does it mean? The press does not know whether the

publisher has been asked to give security or not. A new man asks me to print. I am the keeper of a press. I do not know what has transpired to the publisher in Calcutta, whether security has been taken from him or not.

**Shri Bharati (Madras):** That is why he has been asked to show cause and be rid of the whole bother.

**Pandit Thakur Das Bhargava:** I thought there was only one hon. Home Minister in the House. I find there are other pocket editions also. Even before hearing what I have to say, the hon. Member just stands up and wants....

**Mr. Deputy-Speaker:** Order, order; this is not necessary. The hon. Member need not be interrupted. After all, it does not curtail the debate.

**Pandit Thakur Das Bhargava:** The situation is this. Here is a man having a press worth ten lakhs of rupees. A man comes to him and asks him, "kindly print this paper for me". He does not know what has happened to this publisher in Calcutta or Bombay. He just prints the paper. What is the result? Forfeiture? Have you ever seen a drastic law like this? The result is he is called upon by the magistrate to show cause why his entire press should not be forfeited.

**Shri Rajagopalachari:** The hon. Member can expatiate upon it. The point is, surely, the hon. Member is exaggerating the context. Here is a case which is famous all over the country. When a newspaper is ordered to pay security, that newspaper with that heading, gets printed in another press. Is it a case of innocence?

**Pandit Thakur Das Bhargava:** I learnt today from the hon. Minister that no person should be interrupted in his speech. He was very much adamant when I wanted to put a question. He would not give way. I am not complaining. When the hon. Home Minister stands up, it is my duty to sit down. I am ready to hear what he wants to say.

**Mr. Deputy-Speaker:** The hon. Member may kindly go on and resume the thread of his arguments.

**Shri J. R. Kapoor:** I would suggest, Sir that since it is the intention of the hon. Home Minister to move certain amendments to this clause, it may be worth while having those amendments first and then we may discuss those amendments. That may be tomorrow because, if I may respectfully draw your attention to that, we have

to attend the President's Party at 6-30 and courtesy to the President requires that we must be punctual.

**Shri Rajagopalachari:** In connection with the suggestion made by Shri J. R. Kapoor, I want to say this. As the time is approaching when we may have to disperse, clause 9 may be passed leaving out sub-clause (3). Then, I shall consider whether I can alter it suitably. Hon. Members have not given any amendments; but only press the reasons. I have to work out how it could be modified. The rest may be passed.

**Pandit Thakur Das Bhargava:** It is not necessary to give amendments to this atrocious clause. It cannot be supported. It cannot be passed.

**Shri Rajagopalachari:** Then, I do not want to give any amendments. As hon. Members have not given notice of any amendments, we must go on with it. It does not pay to be reasonable. In as much as no amendment has been given although we had so much time, I do not see why we should not pass the clause. If the Government wants to modify it, it can bring in the amendment at any time. Therefore, I do not see why we should wait.

**Shri Lakshmanan:** There is an amendment in my name that sub-clause (3) be deleted.

**Shri Sidhva:** It is a negative amendment.

**Shri Lakshmanan:** It is not for the deletion of the clause as a whole. It is for the deletion of a sub-clause.

**Mr. Deputy-Speaker:** It is not out of order. But, I do not know whether the hon. Minister would accept the omission of sub-clause (3). He wants to take time to consider how the sub-clause could be modified.

**Pandit Thakur Das Bhargava:** My attitude has been rather misunderstood. Even if there is no amendment, there is the option not to agree to this clause. If there is a reasonable amendment on behalf of the hon. Home Minister, we will certainly consider that and we are here to consider that.

**Mr. Deputy-Speaker:** What he suggests is, that there is no amendment to sub-clause (3).

**Shri J. R. Kapoor:** There are a number of amendments standing in the name of my hon. friend Pandit Thakur Das Bhargava.

**Mr. Deputy-Speaker:** He has moved only one amendment. That relates to sub-clause (1) of clause 9.

**Pandit Thakur Das Bhargava:** There is the amendment of my hon. friend over there.

**Mr. Deputy-Speaker:** I will come to that later. Pandit Thakur Das Bhargava has moved only his amendment to sub-clause (1).

**Pandit Thakur Das Bhargava:** But, Sir, you have allowed me to speak on the clause and I will speak on my amendment only later. And the first thing that struck me when speaking on the clause is this amendment which asks for the deletion of sub-clause (3).

**Mr. Deputy-Speaker:** So far as sub-clause (3) is concerned, that will stand over for the present. Let us proceed with the other sub-clauses.

**Shri Goenka:** Sir, it is already 6-15 P.M. and we have to attend the.....

**Several Hon. Members:** There is the President's party, Sir.

**Mr. Deputy-Speaker:** Hon. Members know fully that no party should be arranged which will interfere with the work of the House. We have not been adjourning for any party or on account of any party. All the same we will adjourn as usual at 6-30 P.M. It is not right that anybody should say that we adjourned because of any party. The party could be arranged a little later.

**Shri Bharati:** Perhaps those who arranged it had no information about it.

**Mr. Deputy-Speaker:** We shall go on till 6-30. I am not competent to say anything about the party. Sub-clause (3) of clause 9 will be considered later with such amendment as may be brought forward by the hon. Minister.

There is one amendment moved by Pandit Thakur Das Bhargava to sub-clause (1). Shall I put it to vote?

**Pandit Thakur Das Bhargava:** I may be allowed to speak on the amendment. Sir, let us be clear in our minds as to what is the nature of the security proceedings and what is the nature of the forfeiture proceedings. I submit that in so far as security provisions contemplated in this Bill as well as the security provisions of the Criminal Procedure Code are concerned, the man who is proceeded against is deemed absolutely innocent in the eye of the law. He is a gentleman. He has not been convicted of any of-

fence. The objectionable matter does not constitute an offence under the Indian Penal Code. So in the eye of the law the only punishment given to a man of this sort, under section 107, or 108 or even 110 which is applied to *badmash* persons is simple imprisonment. As long as a person is not convicted, he is absolutely innocent in the eye of the law. So he is treated as a gentleman.

In regard to security also, this is the first time that an analogy is given whereby a security is going to be recovered and treated as if it was on a par with fine. Security is taken for the prevention of the commission of an offence. Security is only a matter of safeguarding that no crime is committed. If that be so, I am rather surprised at the view that, as a matter of fact, forfeiture should follow the taking of security. Security is not a charge and forfeiture should not follow security. It is entirely wrong to suggest that security is a kind of charge against the property, because it has to be returned to the man. Therefore the entire Bill is misconceived. All these arguments regarding forfeiture and security are being considered in such a perspective that the law will not countenance them. I was rather surprised to hear that as a covenant attached to the land goes with it even so the security goes with the press. It does not go with the press and it is a wrong conception.

Another submission I want to make is this. A publisher is not the owner of the press ordinarily and if a security is demanded from the publisher some other steps should be taken to penalise him, if he does not pay it. As a matter of fact the only step that can be taken for recovery is zero. Security is a trust money with the Government and it is sure to be returned.

**Mr. Deputy-Speaker:** Pandit Bhargava's amendment relates to sub-clause (1) that after the words "news-sheet" the words "without the permission of the Government" be inserted. But the words "news-sheet" do not appear in the sub-clause at all. There is no amendment to sub-clause (1) and this has to be modified.

**Shri Rajagopalachari:** That is what I wanted to know.

**Shri Goenka:** Those words are in sub-clause (2) and not in sub-clause (1).

**Pandit Thakur Das Bhargava:** It should go in sub-clause (2).

**Shri Rajagopalachari:** Even then I do not know whether it is correct. If the words "without the permission of the Government" are inserted, it would read:

"Where a deposit is required from the publisher of a newspaper, or news-sheet without the permission of the Government under section 7....."

I do not think that is the place where it should be amended.

I might perhaps help the hon. Member. It should be inserted in the last but one line, where it should read:

"be used for the printing or publishing of such newspaper or news-sheet without the permission of the Government until the deposit has been made."

That is corresponding to what he has proposed.

If it will save time I will accept the amendment.

**Pandit Thakur Das Bhargava:** I am grateful to the hon. Minister.

**Shri Rajagopalachari:** Thank me in your heart.

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

In sub-clause (2) after "news-sheet" where it occurs for the second time, insert "without the permission of the Government".

The motion was adopted.

**Pandit Thakur Das Bhargava:** With your permission, Sir, may I say that I am emboldened by the acceptance of the hon. Minister and I submit that a similar amendment was moved by me to clause 6.

**Shri Rajagopalachari:** Let the hon. Member remember the reason for which I accepted the amendment. It was to save time and not to lose more time.

**Shri Goenka:** I want some clarification, Sir. Part (b) of sub-clause (1) of clause 9 says:

"notwithstanding anything contained in the Press Registration Act, no person shall make, or be allowed to make, a fresh declaration before a magistrate under section 5 of that Act as publisher of that newspaper or any other newspaper which is the same in substance as that newspaper....."

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I would ask the hon. Home Minister for clarification as to what is meant by "any other newspaper which is the same in substance as that newspaper". Every newspaper has the same substance: there will be news and views.

**Shri Rajagopalachari:** I shall certainly explain it. If Mr. Goenka, for instance, has to pay deposit for the *Indian News Chronicle* and next day he makes a fresh declaration for the *Indian Chronicle*, and with the same editor, the same publisher, the same proprietor, the magistrate will hold without any consideration at all that it is the same in substance.

**Shri Goenka:** Will the hon. Minister then amend the clause properly to say that it must be with the same keeper and same publisher and not say "same in substance as that newspaper"?

**Shri Rajagopalachari:** We cannot anticipate every kind of elusion or evasion, therefore reference to the substance is there.

**Shri Goenka:** I do not think "substance" should be there. Any paper is similar to any other paper in "substance": it has news and views. One paper is similar to another except in regard to certain contents which may suit or may not suit the people concerned.

**Shri Rajagopalachari:** Why did not you frame an amendment?

**Shri Goenka:** Because I know that no amendment has been accepted...

**Some Hon. Members:** Why, just now one was accepted!

**Shri Rajagopalachari:** Where any constructive amendment was suggested I have shown that I accept it. Here you say there is some ambiguity. Surely you could have framed an amendment instead of mooting a doubt at half-past six.

**Mr. Deputy-Speaker:** It is now 6-30 and the House is going to adjourn. The hon. Member will have time to frame his amendment.

Now, as hon. Members know motions on the delimitation orders have to be made by tomorrow. Tomorrow immediately after the questions motions can be made, and again after six o'clock. All motions relating to delimitation of constituencies have to be made within 20 days. We will be

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meeting on the 11th and so these motions may be taken into consideration on that day. And if we sit on the 7th also motions can be made on the 7th as well till 6 P.M. But by way of abundant caution I would advise hon. Members who have given notice of motions to move them at ten o'clock tomorrow immediately after the question hour, and also after six in the

evening in the case of any that may be left over.

**Shri Sidhva:** I thought we did not want to sit on the 7th?

**Mr. Deputy-Speaker:** It will be decided tomorrow.

*The House then adjourned till Nine of the Clock on Saturday, the 10th October, 1951.*

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