

Wednesday, 8th August, 1951



# PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT

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VOLUME IX, 1951

(7th August to 21st September, 1951)

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Fourth Session

of the

PARLIAMENT OF INDIA

1951

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

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**PARLIAMENT OF INDIA**

Wednesday, 8th August, 1951

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

[MR. DEPUTY-SPEAKER in the Chair]

**ORAI. ANSWERS TO QUESTIONS**

**MOBILE AND NIGHT POST OFFICES**

\*41. **Shri Raj Kanwar:** Will the Minister of Communications be pleased to state:

(a) the names of places where (i) mobile and (ii) night post offices have been opened;

(b) the area served by each such post office;

(c) the amount of postal business transacted at each such post office; and

(d) the financial gain or loss incurred as a result of the opening of such post offices?

**The Deputy Minister of Communications (Shri Raj Bahadur):**

(a) (i) Nagpur, Delhi and Madras.

(ii) Bombay—General Post Office, Dadar Sub Office, Kalbadevi Sub Office,

Ahmedabad—Railway pura Sub Office,

Sholapur —Head Office,

Madras —G. P. O. Mount Road Sub Office,

Calcutta —Esplanade Sub Office, Barrabazar Sub Office, Shambazar Sub Office, Rashbehari Avenue Sub Office,

Kanpur —Head Office,

Banaras —Head Office,

Hyderabad—Head Office,

Indore —City Sub Office,

Jaipur —City Sub Office,

New Delhi —Eastern Court Sub Office,

Delhi —Chandni Chowk Sub Office.

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(b) These post offices are generally intended to serve the whole city or town, except in bigger cities where there are two or more night post offices.

(c) A statement of average transactions at these Post Offices during the extended hours and also of the mobile Post Offices is placed on the Table of the House. [See Appendix I, annexure No. 14.]

(d) It is not possible to make any estimate of the financial gain or loss incurred as a result of opening of such post offices.

**Shri Raj Kanwar:** If it is a fact that the mobile and night post offices have proved an unqualified success, do Government propose to extend these amenities? Have they formulated any programme or plan for opening more mobile and night post offices, especially in places having a large population?

**Shri Raj Bahadur:** From the reports so far received it appears that these mobile and night post offices have proved a considerable success. The proposal to extend the facilities to other important towns is under consideration and as funds permit we extend the facilities to other important towns.

**Dr. Deshmukh:** May I know if there is any record kept of the number of persons who have availed themselves of these facilities in the various places?

**Shri Raj Bahadur:** It is rather difficult to keep a record of the number of persons who have availed themselves of the facilities but there is a record kept of the transactions and I would be only too glad to invite my friend's attention to the statement I have laid on the Table.

सेठ गोविन्द दास : क्या सरकार की ऐसी योजना इस सम्बन्ध में बना रही है जिससे हर वर्ष इतने इतने पोस्ट आफिस इन स्थानों पर स्थापित होंगे ?

[Seth Govind Das: Are Government formulating any scheme to open a certain number of post offices in certain places every year?]

श्री राज बहादुर : जैसा मैं ने अभी निवेदन किया, अभी हम इस स्टेज पर नहीं पहुंचे हैं कि कोई योजना निश्चित रूप से बनाई जाय, किन्तु यह अवश्य है कि जैसे जैसे फंड्स हमको मिलते हैं और हम यह सुविधा दूसरे नगरों में दे सकते हैं, उस के अनुसार काम किया जाता है।

[Shri Raj Bahadur: As I have just said, we have not yet reached the stage when a definite plan could be formulated, but we are, of course, extending this amenity to other towns according as funds become available.]

Shri Rathnaswamy: May I know if any steps are being taken to open mobile post offices in rural parts, where these facilities are woefully lacking?

Shri Raj Bahadur: The opening of mobile post offices depends upon the volume of traffic. I do not suppose that in rural areas the amount or volume of traffic is such as would warrant at this stage the opening of mobile or night post offices.

Shri Kesava Rao: What is the average expenditure on running a night post office?

Shri Raj Bahadur: If my friend means the average annual expenditure I may tell him that we are spending about Rs. 13,000 on mobile post offices and about Rs. 2 lakhs on night post offices.

Shri Sidhva: What are the kinds of work performed by these mobile and night post offices? Is it only registered and ordinary letters, but also money orders and V.P. articles?

Shri Raj Bahadur: I may detail the work transacted by these post offices. The mobile post offices deal with registered articles, air parcels and sale of stamps. The acceptance of ordinary articles goes without saying. So far as night post offices are concerned we have to deal with enquiries, sale of postage stamps, registration of letters and parcels, including V.P.s., sale and payment of postal orders and issue of telegraphic money orders. Only insurance and the issue of ordinary money orders are excepted.

Shri Sondhi: Is it not a fact that not a single place in my province of Punjab has benefited by the scheme and if so, what is the reason.....

Shri Raj Bahadur: There is no favouritism or nepotism at all. I would very sympathetically and earnestly consider the advisability of extending the facilities to that province.

Shri Hussain Imam: What about Bihar?

#### INVESTMENTS BY FORMER PRINCELY STATES

\*42. Shri Raj Kanwar: Will the Minister of States be pleased to state:

(a) whether it is a fact that many of the former Princely States had invested a portion of the State money in Government Securities, Government sponsored loans, shares of Joint Stock Companies and the like;

(b) if so, after having taken over the assets and liabilities of the Princely States, what is the policy of Government in regard to the continuance or otherwise of such investment in shares of Joint Stock Companies;

(c) whether a special officer has been deputed to investigate whether it would be profitable to continue to hold these shares or to dispose them of at their market value; and

(d) what is the total value of investment in shares of Joint Stock Companies made by the former Princely States?

The Minister of States, Transport and Railways (Shri Gopalaswami): (a) Yes.

(b) As regards former Indian States which now form part of Part C States under the direct administration of the Government of India, the existing investments will continue to be held until such time as it may be found expedient to dispose of them.

As regards former Indian States which now form part of Part A or Part B States, the policy in the matter of investments is one for the respective State Governments to consider.

(c) No.

(d) A statement is laid on the Table of the House. [See Appendix I, annexure No. 15.]

Shri Raj Kanwar: The statement of which a copy has been supplied to me shows that nearly 18 to 19 crores have been invested by the former Princely States in shares of joint stock concerns. The hon. Minister has replied that it

is not proposed by Government to appoint a special officer to find out the total investments or the market value of the total investments made in joint stock companies. Do not the Government consider it worth while to find out whether any gain or loss has accrued from these investments and to take further steps accordingly?

**Shri Gopaldaswami:** The Central Government where responsible as also the State Governments where they are responsible do review the state of these investments from time to time. If any of them are not profitable or involve any loss, I am sure they will take the necessary action.

**Shri Dwivedi:** What is the policy with regard to the investments which belong to the various States, where the transactions were being done originally in the names of the rulers personally?

**Shri Gopaldaswami:** In every State there are investments which have been transferred to the newly formed States. There are certain other investments which are investments of the ruler himself. They have been recognised to be his private properties. In the case of the State investments the State looks after them and the ruler looks after his own investments.

**Shri Dwivedi:** Is there any case in which investments belonging to the State have been transferred to the ruler?

**Shri Gopaldaswami:** I cannot remember any at the present moment.

**Shri Hussain Imam:** What steps are Government taking to ascertain the holdings of the Indian princes in their personal names, whether they were paid for from the State or the ruler's private funds?

**Shri Gopaldaswami:** Under the covenants entered into with them the rulers have to submit a list of their private properties, including investments and securities and those lists have been scrutinised by the States Ministries. Some of them have been recognised to be State properties and others have been allowed to remain in the hands of the rulers themselves.

**Shri Hussain Imam:** Did they include foreign investments of the Princes also?

**Shri Gopaldaswami:** Yes.

**Dr. Ram Subhas Singh:** What is the total amount of money invested by the former princely States in foreign countries and what is the policy of the Government in that regard?

**Shri Gopaldaswami:** It is difficult to estimate the amount. Not all such foreign investments have been disclosed to the Government. But Government are taking steps to get a list of those investments also from the rulers. After they have scrutinised those lists they will be in a position to estimate the amount.

**Shri A. C. Guha:** How are the profits and dividends out of these investments being disposed of?

**Shri Gopaldaswami:** Dividends on State investments go to the State funds, those Ruler's investments go to the purse of the Ruler.

**Seth Govind Das:** Out of this sum of Rs. 18 crores, have Government ascertained so far as to how much is the amount which has been invested by the Rulers from their personal money and how much from the State funds?

**Mr. Deputy-Speaker:** This question has already been asked.

#### PRIVY PURSE TO MAHARAJA OF KASHMIR

\*43. **Shri Raj Kanwar:** Will the Minister of States be pleased to state the amount of Privy Purse or maintenance allowance, if any, paid to Maharaja Hari Singh and Yuvraj Karan Singh of Kashmir either by the Government of India or the Government of Jammu and Kashmir?

**The Minister of States, Transport and Railways (Shri Gopaldaswami):** The Privy Purse of His Highness the Maharaja of Jammu and Kashmir has been fixed at Rs. 15 lakhs per annum. Out of this amount Rs. 6 lakhs are being paid by the Jammu and Kashmir Government while the balance of Rs. 9 lakhs is, for the present, being paid by the Government of India under the head 'Aid to Kashmir' which is treated as a loan to the Jammu and Kashmir State.

No separate Privy Purse has been fixed for the Yuvraj. A suitable allotment is made for him by His Highness from the Privy Purse of Rs. 15 lakhs.

**Shri Raj Kanwar:** May I know where His Highness Maharaja Hari Singh is staying at present, and is he free to pay casual or occasional visits to Kashmir?

**Shri Gopaldaswami:** He is staying at Napean Sea Road, Bombay.

#### NATIONAL HIGHWAYS

\*44. **Shri Shankarappa:** Will the Minister of Transport be pleased to state:

(a) the total length of (i) National Highways and (ii) Semi-national Highways;

(b) the cost per mile for maintaining them; and

(c) the steps taken to maintain them in good condition?

**Minister of State for Transport and Railways (Shri Santhanam):** (a) (i) About 13,400 miles.

(ii) There is no recognised class of roads designated as "Semi-National Highways".

(b) In respect of National Highways, the hon. Member is referred to the statement laid on the Table of the House on the 27th March, 1951 in reply to Starred Question No. 2546.

(c) Funds within the limits of the annual grants voted by Parliament are placed at the disposal of the various State Governments and technical advice rendered by the Central Roads Organisation to the State Public Works Department concerned, wherever necessary, to maintain the roads in good condition.

**Shri Shankaraiya:** May I know whether there was such a thing as the Nagpur Plan, and, if so, to what extent has that Plan been implemented?

**Shri Santhanam:** Certainly there was a Plan formulated by the conference of engineers which met at Nagpur in 1945 or 1946—I don't remember the exact date. That Plan was partially brought into force on 15th August, 1947 and the national highways were taken over by the Central Government in pursuance of that Plan. Of course we do not have enough funds to carry out that Plan in full. All the details are given in the last report of the Ministry of Transport.

**Dr. Deshmukh:** May I know how many miles out of these 13,400 have been widened or tarred or treated with cement, and what is the length proposed to be so treated hereafter as national highways?

**Shri Santhanam:** We do not propose to add any more mileage to the national highways at present because we are not able to maintain even this mileage in a satisfactory condition. As to the particulars asked for, I would like to have notice. I think many of these particulars are already available in the report mentioned.

**Shri Sidhva:** The hon. Minister stated that the existing highways could not be maintained satisfactorily. May I know what is the reason? And is it a

fact that by not maintaining them satisfactorily they have deteriorated? What steps do Government intend to take to see that these national highways which have been constructed at a high cost are maintained properly?

**Shri Santhanam:** It is not a fact that the Government of India have constructed these highways at a high cost. What actually happened was that we took over many of the provincial roads, converted them to national highways, and have been improving them, building bridges and putting up the connecting links. We are spending as much money as we can get hold of but we have to cut our coat according to the cloth.

**Shri Shankaraiya:** For these 13,400 miles, what is the length that is required for connecting these highways? And has all this length of 13,400 miles been properly connected? If not, what is the length of the connecting link yet to be constructed, and also if there are any bridges lacking for connecting these links how many bridges have to be constructed?

**Shri Santhanam:** I have already referred my hon. friend to the report. I would request him to read it and if he wants further information I am ready to give it.

**Shri Lakshmanan:** May I know whether Government have received any complaints from the State Governments that the maintenance allotment is not sufficient for the national highways situated in the concerned States?

**Shri Santhanam:** All the State Governments want more money.

**Shri Poonacha:** May I know whether the West Coast national highway which was once accepted by the Government as a national highway is now complete?

**Shri Santhanam:** It was never accepted as a national highway. What we have arranged is to construct this road partly out of the funds allotted by the Government of India and partly out of the funds of the State Government. As I once stated, it is treated as a sort of semi-national-highway though there is no such rigid classification adopted at present.

**Shri Sondhi:** In view of the strategic position of the G.T. road from Delhi to Amritsar, will the Government consider the widening of that road?

**Shri Santhanam:** It is a suggestion for action, Sir,



**FLIGHT INFORMATION AND RESCUE CO.  
ORDINATION CENTRE OF U.N.O.**

\*45. **Shri Shankaraiya:** Will the Minister of Communications be pleased to state whether any Flight Information and Rescue Co-ordination Centre of the U.N.O. is established at the Bangalore Aerodrome?

**The Deputy Minister of Communications (Shri Raj Bahadur):** The responsibility for establishing Flight Information and Rescue Co-ordination Centres is of the country concerned. U.N.O. has no concern with it. No such Centre has been established at Bangalore, nor is there any such proposal at present under consideration.

**Shri Shankaraiya:** May I know whether the recent air accident in the Nilgiris could have been avoided by the installation of this apparatus there?

**Shri Raj Bahadur:** All possible facilities which are required for avoiding accidents are extended to the Bangalore area by the Madras centre which already operates effectively.

**Shri Shankaraiya:** Then what is the handicap for not providing this thing at Bangalore?

**Shri Raj Bahadur:** It depends upon the necessity and also the area which a particular centre can command.

**Shri Shankaraiya:** May I know the estimated cost of this apparatus?

**Shri Raj Bahadur:** The estimated cost would be Rs. 34,600.

**Dr. Ram Subhag Singh:** May I know how many flight information and rescue co-ordination centres have been opened in this country since 1950?

**Shri Raj Bahadur:** Four: Bombay, Calcutta, Madras and Delhi.

**Dr. Ram Subhag Singh:** May I know the expenditure incurred on those centres?

**Shri Raj Bahadur:** Each one of these centres is included or incorporated in the area control centre which by itself costs us Rs. 34,600 annually.

**EXPANSION OF INDIAN MERCHANT  
SHIPPING**

\*46. **Shri Shankaraiya:** Will the Minister of Transport be pleased to state:

(a) whether any plan or scheme has been prepared for the increase in the Indian Merchant shipping either by the Government of India or by the Shipping Corporation;

(b) how many services, coastal or to foreign countries, are being run by the Shipping Corporation; and

(c) whether the Planning Commission has been consulted with regard to the expansion scheme?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Attention of the hon. Member is invited in this connection to the answer given to Starred Question No. 2034 by Shri B. R. Bhagat on the 8th March, 1951, wherein details had been given regarding the various measures taken from time to time by the Government of India for the expansion of Indian shipping.

The Eastern Shipping Corporation has also in hand certain schemes for expanding its activities.

(b) The Eastern Shipping Corporation does not run any service on the Indian coast. In the overseas trades, it is at present running the following services:

(i) Regular cargo service between India and Australia.

(ii) Regular passenger-cum-cargo service between India and Malaya.

(c) Yes, Sir.

**Shri Sonavane:** What percentage of our coastal and overseas trade is carried by Indian ships?

**Shri Santhanam:** The bulk of our coastal trade is now being carried by our own ships. If he wants the actual percentages, he may put a separate question.

**Shri Hussain Imam:** Is there any scheme at present pending before the Government for giving advances to established shipping companies to purchase more ships?

**Shri Santhanam:** There is no particular scheme. In the Planning Commission Report, certain sums have been recommended for this purpose and the whole Planning Commission Report is now under the consideration of Government.

**Shri Shankaraiya:** Out of the total tonnage of Indian ships, how much is more than 25 years old?

**Shri Santhanam:** I have not got the details of the age of the ships.

**RESTORATION OF CUT IN RATION**

\*47. **Shri Krishnanand Rai:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether the cut in ration has been restored in any State and if so, in which States; and

(b) whether Government propose to restore the cut in ration in all States in the near future and if so, by what time?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) The 25 per cent. cut in the basic ration has been restored in Assam, Bihar, Bombay, Madhya Pradesh, Madras, Punjab, Uttar Pradesh, Hyderabad, Madhya Bharat, Mysore, PEPSU, Orissa, Saurashtra, Ajmer, Coorg, Delhi, Kutch and Andaman and Nicobar Islands.

(b) All the State Governments have already been advised to restore the cut in ration from the earliest convenient date consistent with the stocks available with them. It is primarily for the State Governments to determine from what date the cut is to be restored, but it is expected that the other States will also restore it as early as possible.

**Shri Krishnanand Rai:** May I know whether the same amount of ration is being given per capita in every State or are there different scales?

**Shri K. M. Munshi:** There are different scales in different States. Twelve ounces is the maximum up to which the States would be entitled to raise their rations.

**Shri Krishnanand Rai:** May I know in what States the minimum twelve ounces ration is being supplied at present?

**Shri K. M. Munshi:** The three States in which it is not raised to twelve ounces are: West Bengal, Rajasthan and Travancore-Cochin.

**Shri Krishnanand Rai:** May I know whether the prices of the rationed foodgrains are the same in every State or is there any difference in the prices?

**Shri K. M. Munshi:** No, they are not different.

**Shrimati Durgabai:** May I know whether it is a fact that the Government of Madras made a representation that the proposal to effect a further cut in the rice portion of the ration is going to work hardship; if so, what is the Government of India's reply to meet their requirements?

**Shri K. M. Munshi:** Apart from what the Madras Government and the Members of Parliament from Madras represented, I went and studied the situation for myself at least in one portion of the Madras Presidency. It

is not possible under present conditions to give any allotment to any State in respect of rice which would enable it to raise the present rations.

**Shrimati Renuka Ray:** When will the ration be raised to twelve ounces in the State of West Bengal, and what is the reason for its being behind most other States?

**Shri K. M. Munshi:** The West Bengal Government want to improve their present stocks before restoring the cut.

**Shrimati Renuka Ray:** Why have the stocks not been improved so far in West Bengal?

**Shri K. M. Munshi:** The reason has been that there was a scare in some districts and they had to despatch a large quantity of foodgrains to those districts in order to allay the panic.

**Shrimati Renuka Ray:** Have they received the Central quota?

**Shri K. M. Munshi:** The Central quota is being maintained all right.

**Shri A. C. Guha:** Is it true that in West Bengal the rice ration has been reduced to only one seer per week?

**Shri K. M. Munshi:** I do not remember. The information must be in my Ministry.

**Shri Chattopadhyay:** In the matter of restoration of the cut in rations, who is responsible? Is the Provincial Government responsible, or does the Provincial Government act according to the advice of the Central Government?

**Shri K. M. Munshi:** As a matter of fact, so far as the restoration of the cut is concerned, the Central Government permitted the States to raise it to twelve ounces. It was left to the State Governments consistently with the stock available with them to raise it or not.

**Shri A. C. Guha:** Is it true that a certain amount of rice was promised to West Bengal by the Central Government and only one-third of this quantity has been supplied?

**Shri K. M. Munshi:** I have already pointed out that the rice position is difficult and whatever promises were made in the expectation of arrivals of certain steamers or fulfilling of certain engagements with foreign countries, if they have not come out in proper time, then it does become difficult to fulfil the engagements.

**Shrimati Durgabai:** Is it a fact that the Government of Madras have made a proposal that they would be willing

to make over their wheat portion of the ration in exchange for rice and if so, are the Government of India considering that proposal?

**Shri K. M. Munshi:** Such a proposal was discussed with me, but that depends upon my capacity to give them rice.

**Shri Karunakara Menon:** In view of the fact that the rice content distributed by the Madras Government has been reduced from 8 ounces to 6 ounces, will the Government of India direct the Madras Government or subsidise the Madras Government to give their wheat ration in broken wheat or in ground flour?

**Shri K. M. Munshi:** If the Madras Government asks for it, I shall see whether I can meet their demand.

**Shri A. C. Guha:** To my previous question the hon. Minister has stated that he does not know whether the rice ration in West Bengal has been reduced to only one seer per week. Will he enquire into the position and if the rice ration has been reduced would he take immediate steps to restore the ordinary rice ration?

**Shri K. M. Munshi:** I mentioned the reason. Perhaps my friend wants it very clearly. I have got very little stock of rice which I can give to the States. I have said this over and over again. I am giving all I can. The difficulties are in rice-eating areas. Rice-eating areas are all impatient about the cut in rice ration, but I cannot meet the rice requirements to the extent to which they would wish.

**Shri Meeran:** What is the rice content of wheat-eating areas like Punjab and U.P.?

**Shri K. M. Munshi:** I would like to have notice.

**सेठ गोविन्द दास :** यह जो हर प्रदेश में राशन बढ़ाया गया है इस में जो अनाज खर्च होगा क्या उस का प्रबन्ध हो गया है या जो अब अमरीका से अनाज आनेवाला है उस में से दिया जायगा। और अगर प्रबन्ध हो गया है तो यह जो अनाज अमरीका से आने वाला है वह क्या रिजर्व में रखा जायगा ?

[**Seth Govind Das:** Have any arrangements been made to meet the increased requirement of foodgrains resulting from the restoration of the ration cut in the states or is it going to be met out of the foodgrains to be imported

from America? If arrangements have already been made, may I know whether the foodgrains being imported from America are to be kept in reserve?]

**Shri K. M. Munshi:** No. We do not make any distinction between foodgrains that are received from other countries on purchase and the American loan wheat. When it comes to us we shall have to distribute everything to the country. We cannot keep it in reserve. We got this wheat loan because we were deficient.

**सेठ गोविन्द दास :** मैं मह पूछना चाहता था कि अभी जो राशन बढ़ाया गया है सरकार के पास अब तक जो अनाज है उस से पूरा हो जायगा या जो अनाज आ रहा है वह भी इस में चढ़ेगा ?

[**Seth Govind Das:** I wanted to ask whether the present stocks with the Government would be sufficient to meet the demand resulting from the increased rations or the foodgrains coming from abroad would also have to be drawn upon?]

**Shri K. M. Munshi:** The twelve ounce ration has been fixed taking into account all the wheat that is coming from foreign countries, including the loan wheat.

**Shri Sivan Pillay:** May I know, Sir, whether the advice of the Centre for restoring the ration cut in the States has been preceded by supply of more grains to the States?

**Shri K. M. Munshi:** As I have already said, permission is given to the States to increase the ration to 12 ounces, consistently with the stock position. But we have added to the allotment, in view of large availabilities which are at our disposal on account of the U.S.A. wheat loan.

**Shrimati Durgabai:** May I know, Sir, whether it is a fact that recently a large number of peasants and tillers were reclassified from rice eaters to millet eaters and thus they were deprived of their rice rations?

**Shri K. M. Munshi:** I should like to have notice of that question.

**Shrimati Renuka Ray:** When will the Government of India be able to supply the additional requirements in rice or other cereals to the West Bengal Government, so that they could raise the ration to 12 ounces?

**Shri K. M. Munshi:** The Government of India is trying to meet West Bengal's requirements with regard to wheat and other cereals as best as it could.

**Shri Hussain Imam:** May I request the hon. Minister, through you, Mr. Deputy-Speaker, that in view of the great interest evinced by hon. members in the food situation, he will circulate a statement—as he did during the last session—giving full details on the food situation, so that the number of supplementaries may be reduced.

**Shri K. M. Munshi:** I shall be too glad to do that—I shall do it next week.

**Prof. Ranga:** Is it a fact that the hon. Minister made a statement in Hyderabad that the rice situation today is under control and is satisfactory, and yet, is it not a fact that in several districts in Madras the rice portion of the ration is only one ounce per adult per day?

**Shri K. M. Munshi:** I do not remember to have stated that the rice position was satisfactory. Do I understand the hon. member to say that I said that the rice position was satisfactory.

**Prof. Ranga:** It was reported in the papers.

**Shri K. M. Munshi:** I am afraid it is a misreporting of what I said.

**Prof. Ranga:** Is the other part of my question not correct that the rice portion of the ration in some districts of Madras State has been reduced to one ounce?

**Shri K. M. Munshi:** Unless the hon. member gives me notice, I would not be in a position to answer that question.

#### FREE MARKET SUGAR

\*48. **Shri Sidhva:** Will the Minister of Food and Agriculture be pleased to refer to the answer given to my Starred Question No. 4628 asked on the 8th June, 1951 and state:

(a) how much of the free market sugar stock has been hoarded and by whom—industrialists or merchants;

(b) what is the regulated manner in which the Ministry advised the industry to release the free market sugar;

(c) whether Government have any control over the release of free market sugar and if not, why not;

(d) how many fair-price retail shops have been opened by the Indian Sugar Mills Association;

(e) whether the free market prices have come down after the Indian

Sugar Mills have taken action in the matter; and

(f) what are the present prices prevailing for free market sugar as compared to the controlled prices?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) There would appear to be no tendency at present for hoarding of free market sugar by merchants or industrialists.

(b) and (c). Attention of the hon. Member is invited to my reply given to part (c) of his question No. 4628 on 8th June, 1951. The industry was advised to arrange sale of free market sugar through their own fair price shops and in a manner that supplies are distributed evenly throughout the year.

(d) The information is being collected.

(e) and (f). A statement showing the prices of free market and controlled sugar in important markets is laid on the table of the House. [See Appendix I, annexure No. 16.]

**Shri Sidhva:** May I know what is the balance now left with the mills for distribution in the various towns?

**Shri K. M. Munshi:** Out of 1,10,198 tons released for free sale up to 15th July, 1951, 66,162 tons have already been dispatched by the mills.

**Shri Sidhva:** May I know, Sir, whether this distribution is made at the instance of Government, or by the Association which has been entrusted with that work?

**Shri K. M. Munshi:** As soon as they become entitled to their quota of free sale of sugar, a permit is given for releasing that. Then, of course, the movement depends upon the availability of wagons.

**Shri Sidhva:** Is it not a fact that for getting higher and higher price, the mills do not release the quantity as it is required and if so what steps do Government intend to take to check it?

**Shri K. M. Munshi:** As I said, there was a tendency for the market to go up and there was forward speculation. I invited the representatives of the Sugar Association and told them of the dangers that lay in such a thing. Since then the market is coming down.

**Shri Sidhva:** From the statement supplied I find that on the 30th June while the controlled price in Delhi was Rs. 33/12/- the free market price was Rs. 64/8/-; similarly in Bombay while the controlled price was Rs. 37/8/- the

free market price was as high as Rs. 69/6/3. In the case of cities like Calcutta and Madras the free market price was one hundred per cent. higher than the controlled price. May I know whether since June Government have taken any steps to see that the prices are lowered down and if so what was the result? May I also know the amount earned by the mills by the free market sale?

**Shri K. M. Munshi:** Three questions have been rolled into one. As regards the first, Government, as I have said have insisted upon fair price shops being opened by the mills. That information is being collected. Secondly, prices show a tendency to come down. In regard to the third question, on account of food movements, wagons are not easily available for the transport of sugar. That leads to a certain amount of stiffening of the market. So far as Bombay and Calcutta are concerned, the citizens are very fond of sugar and therefore the prices there have always been much higher than in other parts of the country. The hon. member will find that in Hapur the price was only Rs. 59.

**Shri T. N. Singh:** May I know whether in the releases that are being ordered by the Government from time to time of sugar from the mills for free sale any planning has been done or are they being allowed to be sold haphazard with the result that there will be shortage in the subsequent months—December and January?

**Shri K. M. Munshi:** The hon. member will remember that if it is free sale, then there cannot be any controlled planning. That is No. 1. At the same time Government is careful to see that there is no excessive hoarding so that the market may not go up at the beginning of December when the new season will begin.

श्री द्विवेदी में यह जानना चाहता हूँ कि क्या अंग्रेजी मिठाइयाँ बनाने वाले कारखानों को और हिन्दुस्तानी मिठाइयाँ बनाने वालों को नियंत्रित चीनी दी जाती है या वह फ्री मार्केट में खरीदते हैं। और अगर उनको नियंत्रित चीनी दी जाती है तो क्या कारण है कि उसकी बनी हुई मिठाइयों पर नियंत्रण नहीं है।

[**Shri Dwivedi:** May I know whether the confectioners and *Halwais* are given rationed sugar or they purchase it in the free market and if they are given rationed sugar, why are the

prices of the confectionary made out of it not controlled?]

**Shri K. M. Munshi:** So far as the *halwais* and confectioners are concerned, when Government decided to take over about 10 lakhs tons for rationing commitments, it was on the basis that those merchants should be given the quantities which they were given last year. If they wanted more they were free to buy in the free market in order to make more money. So, there cannot be any question of controlling their prices.

श्री द्विवेदी : में यह कहना चाहता था कि जितनी चीनी उनको नियंत्रित मूल्य पर दी जाती है उसकी मिठाइयों पर कोई नियंत्रण नहीं है और बाजार में वह मिठाइयाँ अधिक कीमत पर बिक रही हैं।

[**Shri Dwivedi:** I wanted to point out that there is no control on the prices of confectionery made out of the sugar supplied to them on controlled rates and that confectionery is being sold in the market at excessive rates.]

**Shri K. M. Munshi:** That is exactly my explanation. A man gets only a small quantity of rationed sugar, but he wants to make more profit. Therefore he buys sugar in the free market and sells it. Naturally he sells it at a higher price.

**Shri Sonavane:** The hon. Minister stated that Government would see that there won't be any hoarding. May I know, Sir, what machinery is there in their hands to see that there is no hoarding of sugar either by the merchants or by the mills?

**Shri K. M. Munshi:** It is again a trade secret. But it is easy to control the prices—not very difficult.

**Shri Harihar Nath Shastri:** Have any steps been taken to find out the total profits accruing to the industry from free sale?

**Shri K. M. Munshi:** I would like to have notice of that question.

**Shri Hussain Imam:** May I know what is the reason for the increase of 20 per cent. in the controlled price of sugar in Bombay as against other centres?

**Shri K. M. Munshi:** There is no doubt about an increase in Bombay, but I am not in a position to explain it just now.

**Shri Sidhva:** Is the hon. Minister aware that an economist has stated

that due to the high prices of this free market sugar, industrialists have earned Rs. 4 crores and, if that is so, may I know whether they are subject to Income-tax and whether he will be pleased to communicate it to the hon. the Finance Minister?

**Shri K. M. Munshi:** If my impression is correct, they have made more than Rs. 4 crores, and I have agreed to have the figures calculated. They will have to pay Income-tax, excise duty, cess, and all the various things, and I think quite a bit of that money will come back to Government.

**Some Hon. Members rose—**

**Mr. Deputy-Speaker:** I am sure the hon. Minister will give any more information that he has in the Note.

#### FOOD GIFT FROM U.N. STAFF

\*49. **Shri Sidhva:** Will the Minister of Food and Agriculture be pleased to state:

(a) what quantity of Food Gift from U.N. staff was received by the Government of India; and

(b) how was it distributed?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) About 10 tons.

(b) This gift has been allotted to Bihar Government for free distribution in the scarcity stricken areas.

**Shri Sidhva:** Is it a fact that more shipments of these food gifts are likely to come for relief purposes in India, and may I know whether this quantity has been distributed to Bihar free of charge?

**Shri K. M. Munshi:** The hon. Member is perfectly correct. The amount collected so far will be able to purchase 100 tons of wheat, and they expect to buy and ship another 40 tons in all 140 tons out of the collections made by the U.N. staff. As regards the disposal, they are all being disposed of for poor centres and without charging anything.

**Shri Sidhva:** What machinery has been set up to see that this food gift is distributed to the poorer people and not to the upper classes of people?

**Shri K. M. Munshi:** These food gifts are sent to the Deputy Commissioner or the Collector, as the case may be, of the district, and he is asked to distribute them to the absolutely poorest people.

**Shri Kesava Rao:** May I know whether any of the food gifts have

been given to Madras which is equally famine-stricken?

**Shri K. M. Munshi:** Oh, yes, it has been given to Madras.

**Shri Sidhva:** May I know whether any report has been received from the Bihar or the Madras Government as to how they have been distributed?

**Shri K. M. Munshi:** Reports are coming as to where they are distributing.

#### IMPORT OF DATES

\*50. **Shri Sidhva:** Will the Minister of Food and Agriculture be pleased to state:

(a) what quantity of and at what price dates have been received in the years 1950 and 1951 (each year separately) from foreign countries;

(b) how much has been disposed of through ration shops in various States and how much disposed of by other process and how much is in stock;

(c) what quality of dates were imported;

(d) whether the dates now lying in stock have deteriorated;

(e) how much is allowed to be distributed against ration quota of these dates; and

(f) what are the prices of these dates in the ration shops in Bombay State?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) The Government of India did not import any dates during the year 1950.

25,500 tons of Iraqi dates were imported by the Government of India in the year 1951 to date. Prices paid for them were as under:

Date of purchase	Quantity	Rate per ton CIF: Bombay
9-1-51	10,000 tons	18/- (St.)
14-2-51	7,000 tons	17/5 "
27-4-51	5,500 tons	14/- "
30-4-51	3,000 tons	14/- "
Total	25,500 tons	

(b) (i) Complete returns from all the States have not yet been received. The information so far available shows that of the first 17,500 tons of Hallowi variety, the quantity sold through ration shops would be approximately 90 per cent. while that disposed otherwise would be approximately 9 per cent. and about 1 per cent. would be in stock.

(ii) As regards the other 8,000 tons of Sair variety, approximately 35 per cent. is being sold through ration shops while the balance is being distributed otherwise.

(c) The dates imported were of two varieties—Hallowi and Sair.

(d) According to latest reports, about (155 tons) of the stock in hand have deteriorated with the monsoon.

(e) The dates were issued in addition to cereal ration and the scale of issues varied from state to state as follows:

State	Scale
Utter Pradesh	1 Ch. per unit per day.
West Bengal	1 Ch. per ration card per week.
Bombay	2 lbs. per family per week.
Madhya Pradesh	8 Ch. per head per week.
Hyderabad	8 Ch. per adult per week.
Bihar	1 oz. per unit per week.

(f) As. 0-6-0 (Annas Six) per sr.

**Shri Sidhva:** The hon. Minister stated that 155 tons of dates have deteriorated. Is it a fact that the quality of these dates was inferior even when they were received and that no purchaser was prepared to purchase them because they were of a deteriorated quality. If so, have any steps been taken against the persons who ordered them, and what is the position?

**Shri K. M. Munshi:** The purchase was of superior varieties, and I do not think the dates when received were either of an inferior quality or were not to the proper standard of quality.

**Shri Sidhva:** When were these dates received and out of them how much was disposed of? What is the cost of these 155 tons of dates which have deteriorated?

**Shri K. M. Munshi:** As I pointed out, these dates were received at different dates between 9th January, 1951 and 30th April, 1951. Of the stocks, 155 tons deteriorated on account of the monsoon. It is not possible to say from which consignment these 155 tons were drawn.

**Shri Sidhva:** May I state to the hon. Minister that I have personally seen the godowns in Bombay and these dates deteriorated ever since their arrival? May I know whether he made any enquiry from the Regional Officer in Bombay as to who imported them and as to what was the reason for this loss?

**Shri K. M. Munshi:** I am much obliged to the hon. Member for the personal information he has given. Now I will enquire as to what the story at the other end is.

**Shri Sidhva:** May I know what was the total amount spent on the purchase, what was the realisation amount, and what was the total loss?

**Shri K. M. Munshi:** The first 17,500 tons were purchased at a total cost of Rs. 41,25,000. The remaining 8,000 tons were purchased at a total cost of Rs. 14,93,333. So far as the first quantity is concerned, I think it was all sold at the landed cost plus the incidental expenses.

**Shri Sidhva:** Let us know the amount actually realised.

**Shri K. M. Munshi:** I have not got the figures with me.

**Shri Sidhva rose—**

**Mr. Deputy-Speaker:** Dates have taken too much of our time. Have we not had a sufficient discussion?

**Shri Sidhva:** The hon. Minister is not in a position to supply the information. There has been a transaction of half a crore of rupees over this.

**Mr. Deputy-Speaker:** I know. The hon. Member is well aware that if he wants to raise this matter during the half an hour discussion he can do so. But we cannot allow a single question to impede the rest of the questions. We have not been able to make sufficient progress.

**Shrimati Durgabai:** I would like to have some information on an important matter.

**Mr. Deputy-Speaker:** On another important matter?

**Shrimati Durgabai:** On this question.

**Mr. Deputy-Speaker:** This has been closed. Next question.

#### FOODGRAINS FOR TRAVANCORE-COCHIN

\*51. **Shri R. Velayudham:** (a) Will the Minister of Food and Agriculture be pleased to state the additional quantity of food grains allotted to the Travancore-Cochin Union recently by the Government of India?

(b) What quantity of food grains was demanded by the State Government from the Centre?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) The ceiling import quota of Travancore-Cochin has recently been raised from

325,000 tons to 400,000 tons, the increase being 75,000 tons.

(b) The total quantity of foodgrains asked for by the State Government for the year was 526,000 tons.

**Shri R. Velayudhan:** May I know, Sir, whether the Minister has come to notice of a statement by the Travancore-Cochin Ministry that the Government of India have refused a substantial allotment of food grains to Travancore and they were forced to reduce the ration from 6 to 4½ Ounces of the rice content?

**Shri K. M. Munshi:** The Travancore Ministers are coming to discuss the whole question today but if the House wants it, I am prepared to say this that the Travancore-Cochin Union has been asking for more and more allotment. I am in the unfortunate position that not a single advice of the Government with regard to their procurement or distribution has been accepted by that Government and now it finds itself in difficulties.

**Shri R. Velayudhan:** May I know whether it is a fact that the Government of India has instructed the Travancore-Cochin Government to increase the rice content to 6 Ounces when there was no stock there.

**Shri K. M. Munshi:** I do not think that the hon. Member's question is quite accurate.

**Shri R. Velayudhan:** May I know whether the price of rice recently supplied to the Travancore-Cochin Government is higher than what is supplied to the Madras Government or even to the other States?

**Shri K. M. Munshi:** I do not think it is quite correct. The fact is that foreign countries from whom we have purchased rice do not send the standard M.S.M. quality. They send finer rice which is higher in price. This difficulty is found in every State.

**Shri R. Velayudhan:** May I know whether the Travancore-Cochin Government is incurring a loss of Rs. 1½ lakhs per day because of the non-allotment of the subsidies recently promised by the Government of India.

**Shri K. M. Munshi:** It is incurring a loss but as I said, I cannot help it. They never accepted my advice in any matter.

**Shri Velayudhan rose—**

**Mr. Deputy-Speaker:** The hon. Ministers from Travancore are already here and the conference is about to begin.

I do not think it is necessary to put further questions. Next question.

#### INTERNATIONAL WHEAT COUNCIL

\*52. **Shri R. Velayudhan:** (a) Will the Minister of Food and Agriculture be pleased to state whether India was represented in the International Wheat Council which distributes wheat to various deficit countries?

(b) What were the reasons that led the Council to decide that India would not be allotted any additional quota this time?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) Yes. India was represented at the International Wheat Council Session held in London from 13th June, 1951 by the Indian Government Trade Commissioner and the Food Liaison Officer in London.

(b) The question does not arise as no request for any increase in quota was made by India.

**Shri R. Velayudhan:** May I know what was the reason for not requesting for additional free quota for India by the representatives of India in that Conference?

**Shri K. M. Munshi:** Last year we pressed for raising our quota and that was raised from 1 million to 1½ million tons. This arrangement prevails till August, 1953 and in view of the general situation, I do not think that India would be in a position to import a quantity which would require to have this figure raised.

**Shri R. Velayudhan:** May I know, Sir, whether the price fixed for the wheat that is allotted by the Council when compared with the price of the wheat that we have purchased from the U.S.A. is lesser or greater?

**Shri K. M. Munshi:** When this agreement was arrived at to raise it to 1½ million tons, nobody could know that natural calamities would come this year and that we would have to ask for a loan of wheat.

**Shri R. Velayudhan:** May I know whether the price fixed for wheat by the Council is lesser than the price already fixed for the wheat we have loaned from America?

**Shri K. M. Munshi:** The wheat pool prices are lower. We had to buy wheat in addition to 1½ million not from the Wheat Pool but from the free market which naturally cost us more.

**Shri R. Velayudhan:** May I know whether India had not put her demand



sufficiently earlier for this wheat from the Council?

**Shri K. M. Munshi:** I have already given the answer. We asked for more and we were given more. We could not ask for more because at the time we did not know what the demand for additional quantity would be on account of natural calamities and other circumstances. We were later forced to go into the market.

**Shri Hussain Imam:** May I know from the hon. Minister whether it is a fact that the ultimate cost including interest and freight of the U.S.A. loan wheat could be almost double the price we would pay for the wheat purchased from other countries?

**Shri K. M. Munshi:** No.

**Shri Hussain Imam:** What will be the price including interest and freight?

**Shri K. M. Munshi:** I am talking of the landed cost. I do not think the landed cost would be—I am speaking from memory—more than Rs. 21 and a few annas, per maund.

#### FOOD GRAINS FROM BRITAIN

\*53. **Shri R. Velayudhan:** (a) Will the Minister of Food and Agriculture be pleased to state the quantity of food grains which Britain has given to India recently on loan basis?

(b) Has Britain diverted to India any quantity of food grains from Australia previously intended for Britain?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) 43,263 metric tons of wheat.

(b) Yes, the above quantity of wheat was from Australia and intended for Britain. This was diverted at the request of India.

**Dr. Deshmukh:** May I ask the question now which I put in connection with the previous question?

**Mr. Deputy-Speaker:** He may put in another form as to bring it within the question.

**Dr. Deshmukh:** Is it not a fact that this whole situation of requiring and asking for wheat even from Britain or taking a gift from Britain has arisen as a result of a huge miscalculation about self-sufficiency?

**Shri K. M. Munshi:** There is no question of gifts so far as Britain is concerned.

**Dr. Deshmukh:** Even diversion.

**Shri K. M. Munshi:** As regards the question of self-sufficiency, it is a very big question which I have replied to at more than once.

**Shri Sidhya:** Does the hon. Minister realise whether India is self-sufficient or not? What is the exact amount that the country is in deficit?

**Mr. Deputy-Speaker:** I do not think that this can be answered in the course of 2 or 3 minutes.

**Shri R. Velayudhan:** May I know whether India has purchased this wheat on a loan basis from Britain and was India also informed?

**Shri K. M. Munshi:** When in November we approached the Government of the U.K. to give us a loan, it was intended to be returned by January or February. Our position was very difficult then and they were good enough to say: "Give us later". Now in view of our difficulties they have agreed to accept price in cash.

**Shri R. Velayudhan:** May I know whether any adjustment of this price will be made in the Sterling Balances credit to India?

**Shri K. M. Munshi:** I have nothing to do with that.

#### COCA COLA

\*54. **Shri Kamath:** Will the Minister of States be pleased to state whether the Rajpramukh of P.E.P.S.U. has resigned the Chairmanship of the Board of Directors of Coca Cola (India) Ltd.?

**The Minister of States, Transport and Railways (Shri Gopalaswami):** Not yet.

**Shri Kamath:** For how much longer is it proposed to let the Rajpramukh of P.E.P.S.U. Union continue in this capacity as Chairman of the Board of Directors of Coca Cola (India) Ltd.?

**Shri Gopalaswami:** There is no question of our permitting him. Our views are perfectly clear. The matter is under correspondence with him.

**Shri Kamath:** For how much longer is it proposed to continue control?

**Mr. Deputy-Speaker:** There is no intention to let any authority at all. The matter is under correspondence.

**Shri Kamath:** Has the Rajpramukh of P.E.P.S.U. been informed that his continuing in this capacity is wholly contrary to the provisions of the Constitution?

**Shri Gopalaswami:** We have certainly informed the Rajpramukh that it is not correct on his part to continue in this office with the Company.

**Shri Kamath:** Is it proposed to connive at the unconstitutional act of the Rajpramukh?

**Shri Gopalaswami:** We are trying to bring him within the correct conduct rules.

**Shri Kamath:** Has any report reached Government that there is a proposal for a plan to manufacture P.E.P.S.U. Cola on the same lines as Pepsi Cola in America?

**Shri Gopalaswami:** If the hon. Member has any information, I should like to have it. I have none.

**Shri Kamath:** What Sir, are the emoluments of the Rajpramukh of the P.E.P.S.U. Union as Chairman of the Board of Directors of Coca Cola (India) Ltd.? What are his emoluments of this Office of profit?

**Shri Syamnandan Sahaya:** 1,000 bottles of Coca Cola.

**Shri Gopalaswami:** I have a faint recollection that the Chairman does not get any remuneration either in cash or in kind.

**Shri Sidhya:** May I know what is the opinion of the Law Minister as far as the disqualification of the Rajpramukh on this matter.

**Shri Gopalaswami:** I have not felt the necessity of asking for the Law Minister's opinion. My own opinion is perfectly clear.

**Shri R. K. Chaudhuri:** May I know if the reason for resignation has anything to do with the.....

**Mr. Deputy-Speaker:** He has not yet resigned.

## WRITTEN ANSWERS TO QUESTIONS

### IMPORTED FOOD GRAINS

\*55. **Shri Kamath:** Will the Minister of Food and Agriculture be pleased to state:

(a) the quantity of foodgrains imported into India since January 1951, giving figures separately for each exporting country;

(b) how much thereof was by way of gift, how much on loan basis, either short-term or long-term, how much on barter basis, and how much for ready cash; and

(c) whether conditions of any kind were attached to any of these transactions and if so, what?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) The quantities imported since January 1st to 31st July of this year inclusive of free gifts are wheat 15,82,900 long tons, wheat flour 9,121 long tons, rice 4,54,608 long tons and milo 5,77,744 long tons. A statement showing the receipts country-wise is placed on the Table of the House. [See Appendix I, annexure No. 17.]

(b) The quantities received by way of gift were 81 long tons wheat, 0,004 long tons flour and 3,055 long tons rice. Approximately 21,000 long tons was imported on loan from U.K. The quantities received on barter basis were wheat 4,52,236 long tons, rice 1,35,354 long tons and milo 1,33,903 long tons. The rest of the quantities were received against cash payment.

(c) The wheat received on loan from U.K. was to be returned by mid July, 1952.

### DEVELOPMENT OF RURAL ROADS

\*56. **Shri Kesava Rao:** Will the Minister of Transport be pleased to state the help given by the Government of India to various States for the development of roads in rural areas?

**The Minister of State for Transport and Railways (Shri Santhanam):** The Central Road Fund is being almost entirely utilised for helping State Governments in development of roads other than provisional National Highways in rural areas. Statewise figures of allocations and grants made from this Fund are published in the Report of the Ministry of Transport, 1950-51, Part II: Road Development, Appendix VII, Statements 2 and 3. Copies of the Report are available in the Library.

### DEVELOPMENT OF ROADS IN PUNJAB

\*57. **Sardar Hukam Singh:** Will the Minister of Transport be pleased to state:

(a) whether the Government of Punjab drew up a 5-year programme for the development of roads, in the Punjab beginning with this year;

(b) whether that programme is to be adhered to even after the failure of Constitutional machinery; and

(c) if so, what are the new roads likely to be completed before the General Elections?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Yes.

(b) Yes.

(c) The Delhi border—Kharkhauda Road is expected to be completed before the General Elections.

#### LOCUST CONTROL TEAM

\*58. **Sardar Hukam Singh:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that a team of locust control experts have been invited from Germany;

(b) what other countries they have come from; and

(c) what would be their expenditure and how long are they likely to stay here?

The Minister of Food and Agriculture (Shri K. M. Munshi): (a) and (b). No experts have been imported from Germany for locust control. A team of 12 experts consisting of a Senior Entomologist and a few pilots and technicians, has, however, been obtained from the U.S.A. under President Truman's Point Four Programme for aerial locust control operations.

(c) The Government of India is meeting the board and lodging expenses of the experts during their stay in India which is about Rs. 25 per day per expert. The experts are likely to stay in India for about six weeks.

#### TELEPHONES IN DELHI (COMPLAINTS)

\*59. **Dr. M. V. Gangadhara Siva:** Will the Minister of Communications be pleased to state:

(a) the number of complaints received per month from July 1950 to July 1951 about the unsatisfactory working of Telephones in Delhi; and

(b) whether any steps have been taken to improve the working of the telephone system and if so, what they are?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) A statement is laid on the table of the House. [See Appendix I, annexure No. 18.]

(b) The New Delhi system is working satisfactorily. The old Delhi telephone exchange is not functioning so satisfactorily. The exchange will be replaced shortly by a new exchange in Tis Hazari. The building is expected to be completed by the end of this month when the installation of the equipment will be taken up.

The following steps have in the meantime been taken to improve the service—

(1) Intensified inspection of lines, cables and subscribers' premises and testing of dials.

(2) Regular maintenance of equipment and 2-hourly check of exchange equipment faults.

(3) Replacement of worn-out equipment and subscribers' office wiring.

(4) Observation from centralised service observation equipment of subscribers' telephones, particularly of those from whom frequent complaints are received.

(5) Tightening up supervision at centralised complaints and enquiry positions.

(6) Daily checking of meters and observation of subscribers' meter operation from meter observation positions.

(7) Observation of trunk service, trunk enquiry and complaints positions from special secret monitoring positions.

(8) Frequent inspections of exchange equipment, lines and cables by officers.

#### BRIDGE OVER PAINGANGA RIVER

\*60. **Dr. Deshmukh:** Will the Minister of Transport be pleased to state:

(a) whether there is any proposal to construct a bridge on the Painganga River out of the Road Fund so as to connect Nagpur with Hyderabad via Pandharkawda (M.P.) and Edlabab (Hyderabad);

(b) when the proposal was first mooted;

(c) what the present stage of its progress is; and

(d) whether any funds have already been sanctioned?

The Minister of State for Transport and Railways (Shri Santhanam): (a) and (b). In 1933, there was a proposal to construct a bridge over the Painganga river on the C.P./Hyderabad border with financial assistance from the Central Road Fund Reserve. But this proposal was dropped because of difficulties in negotiation with the State Governments concerned at that time, and the subsequent intervention of World War II. This crossing is situated on a road now accepted as part of the present provisional National Highway System and, therefore, the Government of India are responsible for providing funds for the construction of the bridge.

(c) Preliminary survey and investigation for constructing the bridge have

been carried out. The plans and detailed estimates are now under preparation by the Madhya Pradesh P.W.D. in consultation with the Hyderabad P.W.D.

(d) Not yet, but a sum of Rs. 50,000 has been tentatively earmarked during the current year.

#### PISCICULTURE

\*61. **Shri Jnani Ram:** Will the Minister of Food and Agriculture be pleased to state the steps Government have taken to improve Pisciculture in Delhi area?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** In order to exploit and develop the fisheries in the Delhi State the Fisheries Department was established in 1947. All the tanks and ponds suitable for pisciculture were surveyed in the year 1948-49. A scheme for stocking all such waters with fish was undertaken in the year 1950. The Fisheries Department have acquired 13 tanks comprising an area of 75 acres and stocked all of them with fish.

#### CENSUS OF LIVESTOCK

\*62. **Shri S. N. Sinha:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether the F.A.O. has suggested to the Government of India to have a census of livestock in the country; and

(b) if so, what steps have Government taken in this regard?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) Yes.

(b) A circular was issued to the States in April, 1950, asking them to conduct the usual quinquennial livestock census in May, 1951 and to communicate to the Government of India, within about two months of the completion of the census, the results thus obtained. The census has been taken in most of the States and compilation of the results is now in progress.

#### LOCUST MENACE

\*63. **Pandit Munishwar Datt Upadhyay:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that the locust menace in India is increasing and is likely to make its heaviest invasion in 1951;

(b) what is the source of their origin and what countries are in the probable range of their invasion; and

(c) what arrangements are being made to meet the situation in India?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) Yes.

(b) The foreign locust swarms, which in periodical cycles invade India and other countries, have their origin in the Middle-East countries like Oman, Arabia, Baluchistan and Iran, which have permanent locust breeding areas. Countries which fall within the probable range of invasion of the swarms, are Pakistan, India, Afghanistan to the east, Russia and Turkey towards north-east, Southern Europe and North and West Africa to the north and north-west.

(c) Attention is invited to the reply given on 4th May, 1951 to part (c) of Starred Question No. 3844.

#### Kharif CROPS

\*64. **Pandit Munishwar Datt Upadhyay:** Will the Minister of Food and Agriculture be pleased to state:

(a) what was the total acreage under Kharif crops in different States in the years 1949 and 1950;

(b) what is the total acreage under Kharif Crops in 1951, Statewise;

(c) what is the amount of fertilizers used in the years 1949 and 1950 and also in the current year; and

(d) what was the produce in the Kharif of 1949, 1950 and what is the estimated produce in 1951, Statewise specially of rice?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) It is presumed that the hon. Member desires to have information regarding kharif cereals, the total acreage under which is estimated at 156.7 million acres and 163.3 million acres during 1948-49 and 1949-50 respectively.

(b) to (d). Three statements showing the available information are placed on the Table of the House. [See Appendix I, Annexure No. 19.]

#### DECK PASSENGER COMMITTEE

\*65. **Pandit Munishwar Datt Upadhyay:** Will the Minister of Transport be pleased to state the recommendations of the Deck Passenger Committee and how are they to be implemented in near future?

**The Minister of State for Transport and Railways (Shri Santhanam):** The printed copies of the Report of the Deck Passenger Committee were received on the afternoon of the 6th instant and copies thereof have been placed in the Library of the House. Attention is invited to paras. 221 to 272 of the Report which contain the summary of the Committee's recommendations.

The question of considering and implementing the various recommendations of the Committee will now be taken up.

#### FOOD GRAINS FOR BIHAR

\*66. **Shri B. R. Bhagat:** Will the Minister of Food and Agriculture be pleased to state:

(a) the amount of food grains despatched to and received in Bihar in the months of June and July, 1951;

(b) the amount of money spent over relief measures in scarcity areas of Bihar uptill now; and

(c) the number of persons employed or benefited as a result of these relief measures?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a)

(Figures in tons)

	Quantity despatched	Quantity received in Bihar
June	117,851	130,165
July	74,205	52,117 (up to 15.7.51)

Quantity received in a month includes quantity despatched in previous month also.

(b) Rupees 3 crores by way of loans to agriculturists, 6 crores on work involving heavy manual labour and 2.28 lakhs on work involving light manual labour. An amount of approximately Rs. 4½ lakhs is being spent every week on gratuitous relief. The total expenditure on this account is being ascertained.

(c) The number of persons getting relief has varied from week to week. The total figures are not readily available as expenditure has been incurred through different agencies, often through contractors on piece work basis. Necessary data will be collected and placed on the Table of the House.

#### ELECTRICAL LOCKING DEVICE

\*67. **Shri J. N. Hazarika:** Will the Minister of Railways be pleased to state:

(a) whether there is any electrical locking device invented and placed before the Government of India by any party other than Mr P. C. Mukherjee; and

(b) whether Government have any proposal to appoint any other Expert Committee to go further into the details of the device?

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**The Minister of State for Transport and Railways (Shri Santhanam):** (a) No.

(b) Government have had the device fully examined by an Expert Committee, the results of which were circulated to all members of this House in May last. Government have accepted the conclusions and recommendations of this Committee, they do not propose to set up another Committee in the same context.

#### CITRUS TREES

\*68. **Shri A. B. Gurung:** Will the Minister of Food and Agriculture be pleased to state:

(a) the names of states where citrus trees are grown; and

(b) the measures Government have so far taken to combat the spreading menace to citrus trees called "The Frenching disease"?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) Citrus trees are grown all over India.

(b) This disease is a deficiency disease incapable of spreading. Wherever it occurs remedial measures are taken by spraying the affected trees.

#### TELEPHONE SYSTEM IN PUNJAB

\*69. **Giani G. S. Musafir:** (a) Will the Minister of Communications be pleased to state whether any complaints have been received regarding the defective telephone system in the Punjab State and particularly at Amritsar?

(b) What steps do Government propose to take in the matter?

**The Deputy Minister of Communications (Shri Raj Bahadur):** (a) No serious complaints have been brought to notice.

(b) To meet the growing demand and to improve the quality of service, the following steps are being taken—

(i) Rehabilitation and expansion of existing exchanges by replacing worn-out equipment and making additions.

(ii) Laying additional underground cables.

(iii) Enforcement of stricter supervision.

#### RAILWAY ACCIDENT AT DARBHANGA (COMPENSATION)

\*70. **Shri S. N. Das:** Will the Minister of Railways be pleased to state:

(a) Whether a Claims Commissioner has been appointed to consider the cases of compensations arising out of

the railway accident at Darbhanga that occurred on the 11th May 1951, on the O.T. Railway;

(b) what was the last date for submission of claim petitions;

(c) the total number of claim petitions received by the Claims Commissioner; and

(d) the total amount of compensation claimed?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Yes.

(b) 11th August, 1951. The Claims Commissioner may, however, on good cause shown allow any application to be made at any time upto the 10th May, 1952, i.e., within one year of the occurrence of the accident.

(c) Government are not aware of any applications having been received by the Claims Commissioner upto the 24th July, 1951. The Railway, however, received two applications which they have since transferred to the Commissioner.

(d) Rs. 10,000.

#### AIR AGREEMENT WITH NEPAL

**\*72. Shri S. N. Das:** Will the Minister of Communications be pleased to state:

(a) whether any negotiations are going on with the Nepal Government for an Air Pact; and

(b) if so, at what stage the negotiations have reached?

**The Deputy Minister of Communications (Shri Raj Bahadur):** (a) and (b). A draft agreement was forwarded to the Government of Nepal in July 1950 and is at present under the consideration of that Government.

#### CENTRAL TRACTOR ORGANISATION

**\*73. Shri S. N. Das:** Will the Minister of Food and Agriculture be pleased to state

(a) the total acreage of land ploughed by the Central Tractor Organisation from the time the organisation came into being giving figures, year by year and State by State;

(b) the total number of tractors with which the Organisation began its work and the present number of tractors that the organisation has;

(c) the average number of hours that each tractor has worked;

(d) the total acreage of such reclaimed land that has been brought under cultivation;

(e) the average yield per acre of such cultivated land; and

(f) the total produce from such cultivated land, year by year and State by State?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) A total area of 4,65,336 acres has been reclaimed by the Central Tractor Organisation upto the end of the last operational season. In addition, tree-felling operations have been completed on an area of 31,006 acres in U.P. in connection with the jungle clearance scheme of the Organisation. The break-up, year by year and State by State, of the acreage is given in the statement placed on the Table of the House. [See Appendix I, annexure No. 20.]

(b) The Organisation began its work in the 1947-48 season with 99 tractors; the Organisation now has 458 tractors.

(c) The average number of hours that each of the various types of tractors has worked is given in the statement placed on the Table. [See Appendix I, annexure No. 20.]

(d) The entire area of 1,83,374 acres reclaimed up to the end of the 1949-50 season has been brought under cultivation. As for the area of 2,81,962 acres ploughed in the last (1950-51) season, except for some 26,000 acres which will grow both Kharif and Rabi crops, the land will be cultivated in the next Rabi season. The 31,006 acres of land on which tree-felling operations have been carried out, will have to be ploughed in the next reclamation season before it can be cultivated.

(e) and (f). Information regarding average yield per acre and the total produce has not yet been received from all the State Governments concerned. Information received from Madhya Pradesh, Bhopal and Punjab Governments is contained in the statement placed on the Table. [See Appendix I, annexure No. 20.]

#### RAILWAY STRIKE

**\*74. Shri Kamath:** Will the Minister of Railways be pleased to state:

(a) whether Government have been intimated about the decision of the All-India Railwaymen's Federation to strike work in the near future,

(b) if so, the demands submitted by them to Government and the date on which the strike is threatened to commence;

(c) whether any or all of the demands are under consideration of Government; and

(d) what measures Government propose to take to prevent dislocation of transport in the event of the strike materializing?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Yes.

(b) The two principal demands of the All-India Railwaymen's Federation are—

(i) Payment of dearness allowance in accordance with the recommendations made by the Central Pay Commission in its report.

(ii) Reference to arbitration or adjudication of all matters considered to be outstanding by the All-India Railwaymen's Federation including those considered by the Joint Advisory Committee on whose recommendations orders have been issued by the Government but which are not acceptable to the Federation.

(c) These demands of the All-India Railwaymen's Federation have been considered by Government and the decisions thereon have been communicated to the All-India Railwaymen's Federation.

(d) As a first step Government have issued 'the Essential Services (prevention of Strikes) Ordinance, 1951', taking power to declare strikes on Railways and in other essential services illegal.

#### SCARCITY CONDITIONS IN EAST U.P.

\*75. **Shri T. N. Singh:** (a) Will the Minister of Food and Agriculture be pleased to state whether Government have received reports of scarcity conditions prevailing in certain districts of East U.P.?

(b) What assistance have the Government of India given to the U.P. Government in respect of grain supplies, grants, etc.?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) Yes.

(b) Government of India have assisted U.P. Government by supplying wheat and milo. During the period January to July 1951, 134,000 tons of wheat and milo has been supplied to U.P. During August, a further quantity of 25,000 tons of wheat will be supplied. The State Government has also been promised such additional supplies as may be found necessary till the end of the year.

#### ABOLITION OF ZAMINDARIES AND JAGIRDARIES IN STATES

\*76. **Shri Kishorimohan Tripathi:** (a) Will the Minister of States be pleased to state the names of States which have passed or are in a process of passing *Zamindari* and *Jagirdari* Abolition legislation?

(b) Have *Jagirdari* abolition enactments been brought into force in any of the said States?

**The Minister of States, Transport and Railways (Shri Gopalaswami):** (a) Legislation has been passed for the abolition of Zamindaries in Madhya Bharat and Jagirdaries in Hyderabad. In Saurashtra the Saurashtra Land Reforms Act, 1951, and the Saurashtra Barkhali Abolition Act have also recently been passed. The first named Act will abolish the rights of Girasdars within a period of 15 years from the commencement of the Act, and the second abolishes with immediate effect the Barkhali tenures in the State. Legislative measures for the abolition of Jagirdaries in Rajasthan, and Madhya Bharat are under consideration.

(b) Yes; in Hyderabad.

#### TRANSPORT ARRANGEMENTS OF FOOD GRAINS FROM FOREIGN COUNTRIES

\*77. **Shri Amolakh Chand:** Will the Minister of Food and Agriculture be pleased to state:

(a) the names of the ports in India where food grains from foreign countries will be landed and the arrangements made for speedy transportation to various headquarters of States;

(b) whether any special officers have been appointed at various ports to look after transport arrangements; and

(c) the total tonnage of food grains for which the arrangements have been made?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) The ports utilised at present for import of foodgrains are—Bombay, Calcutta, Madras, Bhavnagar, Navlakhi, Okha, Marmugoa, Cochin, Tuticorin and Vizagapatam. Suitable arrangements have already been made with the railways for speedy movement of foodgrains on their arrival in ports.

(b) At each port, there is an officer who looks after the clearance and dispatch of foodgrains from the port.

(c) Arrangements have been made for the handling and dispatch of foodgrains up to 600,000 tons per month from Indian Ports.

#### CHUNAR-ROBERTSGANJ RAILWAY LINE

\*78. **Dr. Ram Subhag Singh:** Will the Minister of Railways be pleased to state:

(a) whether Government propose to construct a railway line from Chunar to Robertsganj in the Mirzapur district of Uttar Pradesh; and

(b) if so, when the construction work is likely to start?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) The estimate for construction of the line has already been sanctioned.

(b) The work will be commenced after the monsoons.

**RAILWAY BRIDGE BETWEEN MANDALGHAT AND HALDIBARI**

**\*79. Shri Barman:** (a) Will the Minister of Railways be pleased to state whether it is a fact that recently all trains of the Assam Railway in the Jalpaiguri section have been stopping at Mandalghat as the bridge on Buri-tista river between Mandalghat and Haldibari has been declared unsafe?

(b) Is it a fact that due to this action, the Haldibari area has been cut off from all supplies?

(c) Have Government received representations to run the trains up to the bridge-point and arrange a shuttle on the Haldibari side to relieve the distress?

(d) If so, what decision have Government taken in the matter?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Yes, since 1st July, 1951.

(b) No. It has not been completely cut off from all supplies as a ferry service across the river has been arranged by the State Government.

(c) Yes.

(d) Two passenger train services have been arranged to run between Mandalghat and the bridge to enable passengers to avail of the ferry service. Due to absence of an engine and passenger stock on the Haldibari side of the bridge, it has not been possible to run a shuttle train between Haldibari and the bridge.

**बीनी उत्पादन**

**\*८०. डा० बेबी सिंह :** क्या साक्ष तथा कृषि मंत्री यह बतलाने की कृपा करेंगे कि :

(क) १९५१ के वर्ष में कुल कितने एकड़ भूमि पर गन्ने की खेती हो रही है;

(ख) १९५२ के वर्ष में कितने टन बीनी के उत्पादन की आशा है; तथा

(ग) क्या यह देश की समस्त आवश्यकताओं को पूरा करने के लिए पर्याप्त होगी अथवा नहीं ?

**SUGAR PRODUCTION**

**[\*80. Dr. Devi Singh:** Will the Minister of Food and Agriculture be pleased to state:

(a) the total acreage of land under sugarcane cultivation in the year 1951;

(b) the total quantity in tons, of sugar expected to be produced during the year 1952; and

(c) whether it will be sufficient to meet the country's total requirements or not?]

**The Minister of Food and Agriculture (Shri K. M. Munshi):**, (a) to (c). Estimates of the acreage under sugarcane this year have not yet been received from two States and the all-India estimate is, therefore, not yet available. The indications, however, are that the acreage under the current crop will exceed that under last year's crop, which was 41.38 lakh acres. It is not possible to estimate the quantity of sugar which will be produced as a great deal depends on the yield and also on the prices of the competing product, viz., gur. It is however, expected that production will be sufficient to meet the requirements of the country at the rate of consumption which has prevailed in recent years. Indeed, it is likely that the production of sugar will be higher than that of last year, if the crop is not damaged.

**FOOD SCARCITY CONDITIONS IN MADRAS**

**\*81. Prof. Ranga:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether Government have received any representations from Madras State or the District Collectors of Vizagapatam, Srikakulam, and Chittoor Districts about the distress and food scarcity conditions prevailing there;

(b) what is the rice ration allowed to each adult with a rationcard and whether it has been reduced from 3 and 2 ounces to one ounce only per day;

(c) whether large numbers of peasants and others were reclassified recently from rice-eaters to millet-eaters and thus denied their rice-rations; and

(d) whether any reports of deaths due to starvation, continued state of under-nourishment and also prevalence of serious state of mal-nutrition have been received by Union Government from the local authorities?



**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) to (d). The information has been called for from the Government of Madras and will be placed on the Table of the House when received.

#### IMPORTED FOOD GRAINS

\*82. **Shri V. K. Reddy:** (a) Will the Minister of Food and Agriculture be pleased to state the total amount of money spent during the year 1950-51 for importing foreign food grains?

(b) What are the countries from which food grains were imported?

(c) Do the prices of food grains imported vary from country to country?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) About 104 crores of Rupees.

(b) Australia, U.S.A., Canada, Argentine, Uruguay, Burma, Thailand, Egypt, China, Pakistan and Iraq.

(c) Yes.

#### LAND ARMY SCHEME

\*82-A. **Shri Krishnanand Rai:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether the Land Army Scheme has been taken up by the Union and State Governments; and

(b) if so, in which States the mobilisation work has been started?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) and (b). States have generally agreed to take up the Land Army proposal and they are at present working out the details. I hope to be able to report further progress after three or four weeks.

#### TRANSHIPMENT OF GOODS ACROSS GANGES AT MANIHARIGHAT

\*82-B. **Maulvi Wajed Ali:** (a) Will the Minister of Railways be pleased to state what is the average time taken in transhipment of goods across the Ganges at Maniharighat?

(b) Is it a fact that the movement of goods like jute, tea, etc., by the Assam Railway Link Line between North Bengal and Assam has been affected on account of the time taken in transhipment?

(c) Is it a fact that Indian Tea Planters' Association, Jalpaiguri, in its letter to the Financial Commissioner, Railways, made some concrete suggestions for constructing a Railway bridge over the Ganges near Manihari?

(d) If so, what steps do Government propose to take in the matter?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) It takes about 3 hours for a barge or a flat to cross the river.

(b) No, as movement of traffic from and to Assam and North Bengal is also arranged via other routes, viz., via Bhagalpur and Mokameh Ghats and the rail-cum-river route.

(c) Yes.

(d) The matter is under consideration.

#### SUGAR

10. **Shri Kamath:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether Government propose to de-ration and de-control sugar; and

(b) if not, the reasons therefor?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) No.

(b) The available supplies are much less than the potential demand which is estimated at 13 lakh tons.

#### CLASS III RAILWAY SERVICE CANDIDATES

11. **Shri A. C. Guha:** Will the Minister of Railways be pleased to state:

(a) whether the recruitment of all class III Railway service candidates is done by the Central Railway Service Commission;

(b) whether all the candidates have to go to Bombay for interview; and

(c) if so, whether the candidates are given any T.A. and D.A. for the journey and their stay at Bombay?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Yes, except in the case of the Chittaranjan Locomotive Works.

(b) No. Selection Board are held at other headquarters of railways and also at such other places where the number of candidates justified it.

(c) No. Free return journey Railway passes are, however, issued at the discretion of the Commission, if it is anticipated that otherwise sufficient number of candidates will not be forthcoming.

#### WHEAT FROM U.S.A.

12. **Shri Sidhva:** Will the Minister of Food and Agriculture be pleased to state:

(a) how much of the two million tons of wheat which we are getting from U.S.A. is proposed to be kept in reserve stock;

(b) what will be the total cost of this wheat and within what period the loan is to be paid back;

(c) whether any interest is to be paid on it;

(d) what will be the approximate freight charges; and

(e) whether Government intend to revise their policy for import of food grains in 1952?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) Out of the two million tons of wheat a quantity of 1.1 million tons is expected to arrive before the end of 1951 and the balance before July 1952. All the arrivals during the year 1951 will be allotted to State Governments for immediate consumption and for rehabilitating their stock position.

(b) The estimated cost of 2 million tons of grain is \$190 million and the loan is to be repaid within 35 years.

(c) Yes, Interest is to be paid at the rate of 2½ per cent. per annum.

(d) Approximately \$48 million.

(e) The policy is to import as much as is required by the country.

#### VEGETABLE OIL

**13. Dr. Deshmukh:** Will the Minister of Food and Agriculture be pleased to state:

(a) the quantity of vegetable oil produced in 1950;

(b) what oil seeds were used for crushing the above quantity of vegetable oil;

(c) what was the quantity of each kind of oil seed used and what were the average prices per maund paid therefor by the manufacturers of vegetable oil;

(d) what were the prices fixed by Government per pound of vegetable oil for each of the years 1948, 1949 and 1950;

(e) what was the total quantity of oil cakes produced in 1950 by the various manufacturing concerns;

(f) what quantity of oil-cakes were used as manure; and

(g) whether it is a fact that large quantities of oil-cakes are lying in vegetable oil mills for want of transport?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) to (c). A statement giving the required information is placed on the Table of the House. [See Appendix I, annexure No. 21.]

(d) No prices were fixed during these years.

(e) Approximately 20 lakh tons.

(f) Precise information is not available.

(g) No, Sir, except in certain cases in Bombay State where every effort is being made to clear stocks accumulated on Government account.

#### IMMOVABLE PROPERTIES UNDER MINISTRY OF RAILWAYS

**14. Shri Sidhva:** Will the Minister of Railways be pleased to refer to the answer given to my starred question No. 4625 asked on the 8th June, 1951 and state:

(a) what is the value of buildings included in the amount of Rs. 325.54 crores;

(b) what are structural works the amount for which has been included in Rs. 325.54 crores; and

(c) when are the Eastern Punjab and Assam Railways accounts likely to be settled and at what stage they are at present?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) The value of buildings included in the amount of Rs. 325.54 crores is Rs. 74.29 crores.

(b) 'Structural Works' the amount for which has been included in Rs. 325.54 crores, comprise of formation, bridge work, fencing, electric transmission equipment, etc., besides stations and buildings.

(c) The settlement of the accounts of the E.P. and Assam Railways depends on the final closing of the accounts of the ex-N.W. and ex-B.A. Railways for the period 1st April 1947 to 14th August 1947. The responsibility for the closing of the accounts of the ex-N.W. and ex-B.A. (undivided) Railways rests on the N.W. (Pakistan) and E.B. Railways respectively and, although the outstanding questions of procedure have been mostly settled by mutual agreement, the final closing has not yet been completed, for which the Railway Board have been continually pressing on the Government of Pakistan. It is not possible to say when the accounts will be completed by the Pakistan Railways and submitted to the Railway Board.

#### RAILWAY STORES ENQUIRY COMMITTEE REPORT

**15. Shri R. Velayudhan:** Will the Minister of Railways be pleased to state:

(a) whether the Railway Stores Enquiry Committee has submitted its report;

(b) if so, what are the main findings of the Committee; and

(c) whether Government are going to adopt the suggestions made by the Committee regarding the future purchase and usage of the Stores?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Yes.

(b) Copies of the Report are available in the Library of the House, for the information of Members.

(c) The recommendations of the Committee have been generally accepted by the Ministry of Railways. Action for implementing recommendations relating to the Railway Ministry alone has been initiated and is being followed up. The proposed scheme for procurement of railway stores is under examination in consultation with the Ministry of Works, Production and Supply as it involves alteration of the existing arrangements with that Ministry.

#### **RAILWAY ACCIDENT NEAR BAKHTIARPUR**

**16. Shri Sidhva:** (a) Will the Minister of Railways be pleased to state whether it is a fact that 15 Up Banaras Express telescoped into the guard's van of a stationary goods train on the main line of the East Indian Railway between Bakhtiarapur and Karowta stations about 26 miles east of Patna on or about the 23rd June, 1951?

(b) How many were injured or killed?

(c) Did the guard give red signal when the goods train stopped?

(d) What were the causes of the accident?

(e) Who is responsible for this and is any action contemplated?

**The Minister of State for Transport and Railways (Shri Santhanam):** (a) Yes. At about 0-50 hours on 24th June, 1951. No. 15-Up Banaras Express ran into the rear of 707-Up Goods

which, due to some vacuum trouble, had come to a stop in the Block section between Bukhtiarapur and Karowta stations on the Main line of the East Indian Railway.

(b) 22 passengers received simple injuries. None was killed.

(c) The Guard of the Goods train was arrested and released on bail. As there may be a possibility of prosecution in this case, it is inexpedient to publish at this stage details such as required.

(d) Failure of the human element.

(e) Suitable action will be taken against persons whose responsibility is established.

#### **SELF-SUFFICIENCY IN FOOD**

**17. Shri Kamath:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that the Planning Commission has expressed grave doubts about the possibility of attaining self-sufficiency in food in the near future;

(b) if so, on what grounds;

(c) the quantity of food grains recommended by the Commission to be imported during the coming years; and

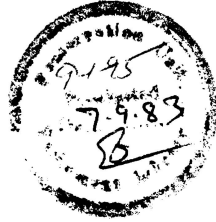
(d) whether there has been any change in the target date for the attainment of self-sufficiency in food?

**The Minister of Food and Agriculture (Shri K. M. Munshi):** (a) and (b). The Planning Commission have stated that even with increase in production, there can be no certainty that the marketable surplus will be large enough to render imports unnecessary.

(c) 3 million tons.

(d) No, Sir. There has been no change in the integrated production programme of the Ministry but the recommendations of the Planning Commission are under consideration.

Wednesday, 8th August, 1951



# PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

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VOLUME XIV, 1951

(6th August, 1951 to 29th August, 1951)

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Fourth Session

of the

PARLIAMENT OF INDIA

1951

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**THE**  
**PARLIAMENTARY DEBATES**  
**(Part II—Proceedings other than Questions and Answers.)**  
**OFFICIAL REPORT**

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**PARLIAMENT OF INDIA**

*Wednesday, 8th August, 1951*

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

[MR. DEPUTY-SPEAKER in the Chair]

**QUESTIONS AND ANSWERS**

(See Part I)

11-45 A.M.

**BUSINESS OF THE HOUSE**

**HOURS OF SITTING**

**Shri Syamnandan Sahaya** (Bihar): Sir, before you take up the next item of business, may we request you again to consider the question of time for the sittings of the House? Could we not sit as we did in the last Session in the morning from 8.30 to 1 or 1.30?

**Shri Kamath** (Madhya Pradesh): No, no.

**Shri Syamnandan Sahaya**: This matter has been discussed.

**Mr. Deputy-Speaker**: I hear this seems to be the general sense of the House. But, I have heard some 'No, No' also. I should like to gather the opinion of the hon. Members. If the majority of the Members are in favour of having one single sitting.....

**Several Hon. Members**: Yes, yes.

**Several Hon. Members**: No, no.

**Mr. Deputy-Speaker**: I am not deciding anything now. I would like to gather the views of the hon. Members and try to adjust my decision accordingly.

The House will now proceed with the business.

205 P.S.D.

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**PAPERS LAID ON THE TABLE**

**EXPENDITURE FROM THE AVIATION SHARE  
OF THE PETROL TAX FUND**

**The Minister of Health and Communications** (Rajkumari Amrit Kaur): I beg to lay on the Table two statements showing the objects on which the aviation share of the Petrol Tax Fund was expended during 1948-49 and 1949-50. [See Appendix I, annexure No. 22.]

**INDIAN COMPANIES (AMENDMENT)  
BILL**

**The Minister of Finance** (Shri C. D. Deshmukh): I beg to move for leave to introduce a Bill further to amend the Indian Companies Act, 1913.

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

"That leave be granted to introduce a Bill further to amend the Indian Companies Act, 1913."

The motion was adopted.

**Shri C. D. Deshmukh**: I introduce the Bill.

**PUNJAB STATE LEGISLATURE  
(DELEGATION OF POWERS) BILL.**

**The Minister of Finance** (Shri C. D. Deshmukh): May I with your permission, Sir, move the other Bill also?

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

**Shri C. D. Deshmukh**: I beg to move for leave to introduce a Bill to confer on the President the power of the Punjab State Legislature to make laws and to authorise him to delegate such power to any other authority.

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

"That leave be granted to introduce a Bill to confer on the President the power of the Punjab

[Mr. Deputy-Speaker]

State Legislature to make laws and to authorise him to delegate such power to any other authority."

The motion was adopted.

**Shri C. D. Deshmukh:** I introduce the Bill.

**ASSAM (ALTERATION OF BOUNDARIES) BILL—Concl'd.**

**Mr. Deputy-Speaker:** The House will now proceed with the further consideration of the motion that the Bill to alter the boundaries of the State of Assam consequent on the cession of a strip of territory comprised in that State to the Government of Bhutan, be taken into consideration.

**The Minister of Law (Dr. Ambedkar):** I am sorry I was not present in the House when a certain point was raised by certain Members that Parliament had no power to pass this Bill, in view of the fact that the Bill proposed, although indirectly, to cede certain portions of territory which belonged to the Indian Union, to Bhutan. I heard that my hon. friend Mr. Sri Prakasa also made certain submissions to the House on this point in justification of the stand taken by the Government. But, I was told that the House expects me to say something on the point.

The point seems to be very easy. I think, in order to understand the matter fairly, it is better to begin by a reference to List I contained in the Seventh Schedule, which defines the legislative powers of this Parliament. I would refer to List I, entry No. 14 and entry No. 15. Entry No. 14 relates to the making of treaties and entry No. 15 refers to war and peace. The question that has been raised very largely hinges upon the interpretation of the words 'treaty making' and 'war and peace'. What do these items include? This matter was debated at great length in the United States when the question arose for the first time for interpretation. In order to cut short the matter, I should like to state that in the United States it has been accepted that treaty making does include the power to cede territory.

**Pandit M. B. Bhargava (Ajmer):** Is there any prohibition there?

**Dr. Ambedkar:** I shall quote the authorities if my friend wants. I have got plenty of them. I do not want to weary the House; I am only going to give the gist.

Treaty making does include cession of territory. In the same way, apart from that particular Entry, the Entry relating to war and peace must necessarily include cession of territory because it cannot be denied that it may sometimes become necessary for a State which is at war with another foreign State, in order to establish peace, to cede a part of its territory as one of the terms and conditions of a treaty of peace. Nobody, I am sure, can challenge or deny that interpretation of the Entry relating to war and peace. Now, if in certain circumstances the Entry relating to war and peace and the Entry relating to treaty making must necessarily include cession of territory, it is quite obvious that the content of these Entries must be deemed to include cession of territory. Therefore, as against the mere fact that in the rest of the body of the Constitution, there is no specific Article conferring specific powers on Parliament to cede territory my contention is that entries 14 and 15 are quite sufficient...

**Shri Kamath (Madhya Pradesh):** No, no.

**Dr. Ambedkar:** ...to endow Parliament with the power to cede territory. My hon. friends, some of them, are shaking their heads saying that that is not correct. But, still, I hold to my view.....

**Shri Kamath:** We also will hold to ours.

**Dr. Ambedkar:** ...that what I am submitting is a point which has been accepted by all great constitutional lawyers, and by the Supreme Court of the United States where also a similar power exists.

**Shri Sidhva (Madhya Pradesh):** What about our Supreme Court?

**Dr. Ambedkar:** Therefore, the first point that I want to submit to the House is that so far as Entries 14 and 15 in List I are concerned, there is the greatest amplitude of power conferred upon Parliament for the purpose of ceding territory.

In view of the fact that certain Members of Parliament seem to be rather unconvinced or not prepared to accept the submission that I am making, I would like to elaborate the point a little further. Hon. Members will remember that the Constitution of the United States is, in a sense, a very difficult Constitution, for the simple reason that the States in the United States are much more independent and sovereign than the States which are constituent elements of the Indian Union, in the sense that the powers of

the Congress are derived from such powers as have been delegated to it by the States composing the United States. It is a government of what are called not merely delegated powers, but enumerated powers. There is no such thing as residuary power in the Central Government of the United States such as we have in our Constitution. Taking advantage of this position, namely, that the States in the United States are masters of their territory and the United States Central Government has no authority so far as the territory of the States is concerned, except with regard to certain limited matters handed over to the Central Government, there was a stage in the interpretation of this particular document under which it was contended that although the treaty-making power of the United States Government may include within it the power to cede territory, it could not include the power to cede territory which belonged to the State. In other words, the treaty-making power of the United States was subject to what was called the doctrine of the inherent rights of the States. It may transfer such other territory which it may have, which it may have conquered, which are regarded in the United States as territories of the United States, but not as constituent parts of the United States. That doctrine, as I said, was urged for a long number of years in the United States. But ultimately the position taken by the Supreme Court of the United States was that the treaty-making power was so unlimited that even a whole State may be transferred and ceded by the United States, if it felt necessary, under the war and peace entry or under the treaty-making power.

**Shri Kamath:** Which particular State was ceded like that?

**Dr. Ambedkar:** I cannot give you that, but I can give the whole volume and the reference too. It is in Willoughby on the Constitution of the United States from page 572 to the end of the volume, I think—it is not very much. It is in Chapter XXXV of the volume, and there you will find all these points discussed. And there is a valuable opinion of Mr. Justice Storey—I think most Members who are interested in constitutional law must be familiar with his name, being one of the greatest authorities on constitutional law. The chapter begins on page 561, but the particular entries are in paragraphs 311, 312 and the other paragraphs up to paragraph 317.

Therefore, my first submission is this that so far as the point raised yesterday is concerned, that Parliament has

no authority, I submit that that point has no foundation in law at all, and that this Parliament has ample power to cede territory and as a consequence of the cession of the territory make adjustments within the boundaries of the States of the Union.

Now the question that arises for further consideration is whether it is necessary for the President to have brought this matter before Parliament or whether he could dispose of it off purely in his executive capacity. Now, on that point, I might also mention incidentally, that the same doctrine prevails in England, that the King can cede territory. In fact, it is the prerogative of the King to do so.

**Shri Kamath:** An un-written one perhaps.

**Dr. Ambedkar:** Whatever it is, the doctrine is there.

**Shri Kamath:** England's Constitution is un-written, that is the difficulty.

**Dr. Ambedkar:** That does not matter at all. I know my hon. friends are relying upon Article 3 of the Constitution.

12 Noon

**Shri Kamath:** Articles 2 and 3.

**Dr. Ambedkar:** I am not touching them at all.

**Shri Kamath:** Evading them?

**Dr. Ambedkar:** I go on a different plane because I am prepared to say that these Articles have no reference to the cession of territory. They do not prohibit, but they have nothing to do with cession. I am prepared to say that in view of the fact that I was concerned with the making of the Constitution, and most Members probably do not know what the intention...

**Shri Kamath:** All of us were so concerned.

**Dr. Ambedkar:** They do not probably know what the underlying intention of this Article was. I know it better and I am prepared to say that though it does not prohibit cession, as pointed out by my friend Shri Santhanam, its primary intention was for dealing with the linguistic distribution of the Provinces. That is why I do not refer to the Article of the Constitution, because the Government's case might be considered to be very weak if I relied on Article 3. So I am relying on something much more fundamental and which no Member can deny, namely, the power to make under Article 3.....

**Shri Kamath:** The acquisition of new territories is under Article 2 which does not mention cession.

**Dr. Ambedkar:** But that does not matter now. The rule that if one thing is expressed and the others are not expressed, then they are excluded, does not apply universally.

I was trying to point that this position, namely, that the State is entitled to cede territory is also the law in England. It is a matter of prerogative for the king to do so and he can do so.

Now I would turn to the second part of the question, namely, whether Parliament need be consulted in a matter of this sort. As you know, in England, the position has varied from time to time. At one time the view that was taken was this, that was a matter which related to the prerogative of the king. And prerogative means what? Let me define it briefly. Prerogative means the power of the king to do something for which parliamentary sanction is not necessary. This is the gist of what is called the prerogative right of the king. Therefore the old view was that since cession of territory was the result of the prerogative of the king, it was not necessary to bring the matter before Parliament because the king was supreme, unless Parliament, by specific law took away the prerogative of the king to make treaty and to cede territory. And as Parliament has not done that, the king has got the power. All the same, treaties ceding territory have come before Parliament in England and I will briefly explain the reason why they have come before Parliament. In the first place, the Government in England has felt that it is much better to obtain the sanction of Parliament to the cession of territory because it was deducting so much territory belonging to sovereignty and over which Parliament exercised supremacy. Therefore, nothing ought to be done without the consent of Parliament. The second reason why it became necessary for the British Government to bring treaties of cession before Parliament was this. It was felt that the transfer of territory was after all, a transfer of the nationality of the people residing in that particular territory. The reason is that when you transfer territory, by virtue of that transfer you also practically transfer the nationality of the people. They became citizens of another State. It was felt that this was too much and it was necessary to consult Parliament whether such a step should be taken, because it was possible that Parliament may insist that the cession should not

be in absolute terms but subject to certain conditions. For instance, Parliament may say that although the territory may be transferred, the nationality of the people should not be transferred by virtue of the transfer and that the people may be permitted to maintain their old nationality or some other provision might be introduced into the treaty, whereby voluntary transfer of nationality may be made a condition of cession. As it involved citizenship and nationality, the British Government always felt that it was desirable to place before Parliament any treaty though it was made by the prerogative of the king and by virtue of which did not require the sanction of Parliament. It was felt that Parliament should be given a voice in determining the nationality of the people in the territory which was being ceded.

The third thing is that under the English law, while it was the prerogative of the king to transfer territory, the treaty by itself could not affect the rights of the people. If for the performance of the treaty certain existing laws were abrogated or affected, then the treaty itself was not competent to do it. It required a separate sanction of Parliament to alter those laws which regulated the rights, obligations and liabilities of the people in order to bring them in conformity with the provisions of the treaty.

These were the principal reasons why under the English law, although the right to transfer territory was a prerogative of the king, the British Government introduced the practice of placing all such treaties before Parliament for sanction. That is the reason why the Government in this case felt that it was desirable to bring this matter before Parliament and obtain its sanction, because in this very Bill I do not exclude the possibility of Parliament introducing certain changes with regard to the nationality of the people in the territory which is sought to be transferred to a foreign State like Bhutan.

These are my submissions with regard to the various points raised. My first submission is that it is not necessary to rely on Articles 2 and 3 of the Constitution, because they relate to a different matter. The purpose of this Bill and that of this treaty comes under entries 14 and 15 in legislative List No. I of the Seventh Schedule. In my judgment, according to the interpretation put upon the content and the ambit of these two entries, it is sufficient to give authority to Parliament to sanction a measure of this sort.

**Shri Kamath:** Before you proceed further, Sir, may I request you to summon the Attorney General to be present here during the course of the debate, as important matters are being raised in the House?

**An Hon. Member:** He is in Australia.

**Shri Kamath:** Is not his Deputy here?

**Several Members** *rose—*

**Mr. Deputy-Speaker:** Hon. Members who have already spoken need not rise. They have no right to speak just because the Law Minister has raised certain new points.

**Dr. Pattabhi (Madras):** Several points which are neither in the Bill nor in the statement of Objects and Reasons have now been adduced by the Law Minister and the whole discussion assumes a *de novo* form, if you have followed it carefully. There was a reference in the statement of Objects to part (c) under Article 3 of the Constitution. There is the statement of the Law Minister that the Bill has nothing to do with Article 3 of the Constitution. You must reconsider your decision, Sir, and allow a fresh discussion on the matter.

**Dr. Ambedkar:** Article 3 comes in only incidentally, because the cession of territory cannot be carried out unless until the boundaries of Assam are adjusted. To that extent Article 3 is relevant. Otherwise Article 3 has no relevance.

**Dr. Pattabhi:** You were not present in the House yesterday when certain statements were made.....

**Dr. Ambedkar:** I am sorry I was not here. If somebody had told me I would have been here. (*Interruptions*). Article 3 comes in only incidentally. The cession of the territory has the consequence of readjustment of the boundary of Assam. So far as that is there, there should be reference to Article 3.....

**Dr. Pattabhi:** For which there is no provision in the Act—I mean for cession of territory.

**Dr. Ambedkar:** That is a difference of opinion. Entries 14 and 15 contain, if you want, the basis of action for the cession of territory.

**Dr. Pattabhi:** Then do not quote Article 3.

**Dr. Ambedkar:** Article 3 has been quoted in an incidental manner because it has reference to the readjustment of the boundaries of Assam.

**Shri Kamath:** Is it clear then, that the matter at issue is cession and not, as the Prime Minister said yesterday, the adjustment of a boundary dispute?

**Dr. Ambedkar:** The cession of territory may have been the consequence of a boundary dispute. Where then is the difficulty?

**Shri Kamath:** Which is the cause and which is the effect?.....

**Dr. Ambedkar:** That I do not know. The administrative department will tell you but I cannot see any difficulty there.

**Shri R. K. Chaudhuri (Assam):** Would you request the Attorney General to be here, Sir? We are entitled to hear his views.

**Mr. Deputy-Speaker:** The Attorney General is in Australia. I do not think it is necessary to hear the Attorney General. The House has heard the Law Minister. (*Interruptions*). Order, order. Hon. Members have had ample opportunities to speak. Let others also have the opportunity to speak. Merely because an hon. Member who had the right to speak urged a particular point in favour of a particular proposition, another hon. Member who has already spoken cannot have additional time to speak again. That would be endless.

**Shri Shiv Charan Lal (Uttar Pradesh):** May I ask one question by way of.....

**Mr. Deputy-Speaker:** Not now. Dr. Mookerjee

**Dr. S. P. Mookerjee (West Bengal):** While rising to speak on this Bill I would like to state at the beginning that I do not wish to dwell at length on the merits of the Bill. Whether a small tract of territory should be given to Bhutan or not is a question which is not immediately before you. I know that what the Prime Minister said yesterday strengthens the case of Government and perhaps there may be special reasons why the proposal which Government has made should be implemented. But I take the strongest objection to the extraordinary procedure which is being followed for implementing the wishes of the Government and it took my breath away when I heard the defence of the Law Minister. Of course he said that he was the author of the Constitution—not the sole author.....

**Dr. Ambedkar:** I did not say I was the author but I was one.....

**Dr. S. P. Mookerjee:** He had the largest part to play in the framing of

[Dr. S. P. Mookerjee]

the Constitution. That being so one would have expected that he should have been the first person to defend the sacredness or sanctity of the Constitution. I could have understood a speech like the Law Minister's from any other Member, even the Home Minister. But so far as the Law Minister is concerned he should have explained very clearly what the implications of the proposal were.

What is the proposal? Whether it is ceding territory first or adjusting the boundary next, the proposal virtually is that you are revising the boundaries of one of your States only by giving up a portion of your territory. If you look at the Bill as drafted the expression "territory" also is used in clause 3. Not only used, but used in capital letters, under the heading "TERRITORIES OF STATES", after the words "Assam Tribal Areas", the following words shall be inserted, namely:—

"but shall not include the territories specified in the Schedule to the Assam (Alteration of Boundaries) Act, 1951."

Can you readjust the boundaries of any of your States after ceding a portion of your territory, according to a mere law of Parliament, or is there any special provision laid down in the Constitution? With all respect to the Law Minister, his reference to the American law or the British law is entirely irrelevant. Here the only question is: if any boundary of any of the existing States has to be altered or if any portion of our territory has to be ceded, no matter how small it is, how is it to be enforced? The Law Minister has referred to the Schedule and has said that Parliament can frame laws in respect of matters arising out of treaties, or matters arising out of peace and war. No one denies that; if a treaty is actually enacted between the Government of India and a foreign Government naturally some law has to be enacted by Parliament. But how is that law to be enacted? That is the question; there is no other question before the House. The only question is: what procedure is Parliament to follow if Parliament is asked by Government to alter the boundaries of any of the existing States, consequent to ceding of a portion of India? The only procedure which is laid down under the Constitution is under Article 3. The Minister in charge of the Bill who happens to be the Prime Minister himself, naturally refers to Article 3 in the statement of objects and reasons. He first of all refers to

the Indo-Bhutan Treaty of Friendship and then he says that under the provisions of Article 3 of the Constitution which came into force subsequently, the implementation of this undertaking requires an Act of Parliament. Why does he make a reference to this? The obvious reply is that under the Government of India Act, 1935, under section 290 this very function which now Parliament is being called upon to discharge could have been discharged by the Government of India without consulting Parliament at all. If the House refers to section 290 of the Government of India Act, the House will find that a special provision was laid down under the Government of India Act, 1935, whereby the Government of India could create a new province, could increase the area of any province, could diminish the area of any province, could alter the boundaries of any province, provided that before making any such order the Governor-General shall ascertain the views of the Government of any province which will be affected by the Order, both with respect to the proposal to make the Order and with respect to the provisions to be inserted therein. So, prior to the passing of our Constitution it was open to the Central Government to have done this by promulgating an Order—nothing more was required. That is why the Prime Minister obviously says in the statement of objects and reasons that since the Constitution was framed subsequently and there was a specific provision under article 3 of the Constitution, this proposal could only be implemented by means of a Bill which had to come before Parliament.

The Law Minister referred to certain judgments passed by the Supreme Court of America. After my experience last time while we were discussing the Constitution (Amendment) Bill, I hesitate to accept the hasty recommendations of the Law Minister unless I can verify.....

**Dr. Ambedkar:** I must protest against this kind of a thing. If my friend is going to challenge a statement that I made then I shall reserve to myself the right to challenge whatever he has stated. I must make it very clear.

**Dr. S. P. Mookerjee:** The Law Minister is protesting too much.

**Dr. Ambedkar:** It is not protesting too much, but I heard you said something the other day when I was not present.

**Dr. S. P. Mookerjee:** You were here, but when I was speaking you had run away.

**Dr. Ambedkar:** You are not such a formidable man as to make me run away.

**Dr. S. P. Mookerjee:** So far as Sri Bhim Rao Ambedkar is concerned who can frighten him?

**Dr. Ambedkar:** I don't like these reflections. You have made the statement, I know. I am not here to challenge it but I would.....

**Mr. Deputy-Speaker:** Should the hon. Members exchange words like this?

**Dr. Ambedkar:** No, Sir, it is going too far. It is deliberately saying that I have misquoted and misrepresented.

**Dr. S. P. Mookerjee:** I have not said that.

**Dr. Ambedkar:** I have been eager enough to allow my friend, Mr. Kamath to have the reference to the book and the pages. I do not like these things. I am treating you with great respect—if you won't do it then I shall descend to your own level.

**Dr. S. P. Mookerjee:** You have descended to your own level.

**Mr. Deputy-Speaker:** Both are highly respected Members of Parliament. It was not necessary for the hon. Member to say those things about the last session. The Law Minister may have given his opinion but the hon. Member has always got the opportunity of reading the relevant judgment himself. All that I can say is that as far as possible, consistent with their own position in the House, and the position of the House itself, they should meet argument by argument. That is my appeal to hon. Members.

**Dr. S. P. Mookerjee:** I had no desire to wound anybody's feelings. I said I hesitate to accept the hasty recommendations of the Law Minister.

**Dr. Ambedkar:** There are no recommendations. I said these are the judgments—I quoted the pages.

**Mr. Deputy-Speaker:** Hon. Members are aware that from the same book different persons can interpret differently, and therefore it was open to the hon. Member, Dr. Mookerjee to read it differently.

**Dr. Ambedkar:** If he had the judgment before him and after reading it he refers to it, I would have respected it. But to say I have misquoted or misrepresented is going too far.

**Dr. S. P. Mookerjee:** I never said misquoted.

**Dr. Ambedkar:** I am not going to allow this kind of a thing.

**Dr. S. P. Mookerjee:** The point I was developing, Sir, was this. The hon. Minister referred to some case which was dealt with by the American Supreme Court—he did not read out the judgment. So far as the American judgment is concerned it is not relevant to the subject matter that we are discussing here now. The Law Minister referred to certain things which are done by the king in England; the king has prerogative powers by virtue of which he can cede certain territories. That also, I would submit, has no relevance to the topic that is under discussion today. All that we are discussing is this: can Parliament cede any portion of the territory of India without following some specific procedure which is laid down under the Constitution? Is there any Article in the Constitution which makes a provision for the purpose of allowing Government to cede any portion of the territories within India? That is the simple question that we have been called upon to consider. Here, Sir, if you look at Articles 2 and 3 you will see what the arrangement was when Part I of the Constitution was enacted.

**Mr. Deputy-Speaker:** Are we to understand that the hon. Member feels that cession of territory is possible under the Constitution but only the procedure under Article 3 has not been followed?

**Dr. S. P. Mookerjee:** There is no specific provision in respect of cession of territory under the Constitution, but even there I am prepared to concede that if by reason of a treaty the position arises that a portion of Indian territory is to be ceded, naturally somebody has got to give the final sanction to such a decision and the matter has to come before Parliament. Here you are not only ceding the territory but you are automatically adjusting the boundaries of one of your existing States and in respect of this matter at any rate there is a specific procedure laid down under the Constitution which you are bound to follow.

**Mr. Deputy-Speaker:** It is claimed it has been followed.

**Dr. S. P. Mookerjee:** No, Sir.

**Dr. Ambedkar:** With your permission, Sir, I would like to clear the point in a few sentences because I am very grateful he has put the point very clearly now. The question seems to be, what is the procedure.....

**Dr. S. P. Mookerjee:** Well, let me finish. I won't speak for long.

**Dr. Ambedkar:** I am not speaking, I am only explaining.

**Dr. S. P. Mookerjee:** I thought, Sir, when the Law Minister spoke earlier also, he was explaining.

**Mr. Deputy-Speaker:** If the hon. Minister feels he can explain a particular point he may do so. I think the procedure has been followed. The President has given his sanction, the resolution has been passed by the Assam Assembly. The recommendation of the President has been printed on the back page of the Bill.

**Dr. S. P. Mookerjee:** I have seen that. But so far as the provision for ceding out any portion of Indian territory is concerned, that is practically bound by the provisions of Articles 1 and 2 and in such circumstances is it open to Parliament to pass a Bill ceding a portion of Indian territory?

**Mr. Deputy-Speaker:** That is another matter. It is not one of procedure.

**Dr. S. P. Mookerjee:** I was referring to both the matters. It is a question of functioning within the Constitution here. If you want to deal with such a case and if you find that your Constitution does not provide for such a contingency—it might have been a mistake; you might have overlooked it—in whatever way it might have been done, the only thing which you can do is to amend the Constitution and Parliament should then take the necessary power to give effect to it.

As I said at the beginning, I am not worried so much about this particular case. Here it is a small portion of the territory which is proposed to be given to Bhutan. There may be special reasons why you should do so. There are historical reasons why such a step if approved by the Government of India and the people of this country might lead to the creation of better relationship between those people and ourselves.

**Mr. Deputy-Speaker:** It appeared from the earlier portion of the argument of the hon. Member that he was conceding the position that by virtue of entry 14 relating to treaties the power is there. It is only the question of procedure.

**Dr. S. P. Mookerjee:** What I am prepared to concede is this. If there is war or if a treaty is entered into between two countries, or if it is decided that a portion of our territory should be ceded or some other portion of territory which is outside India should be included in the Indian territory, there is certainly no bar to the

Government of India entering into such a treaty. The whole question is how to implement it, and that is what we are discussing today. Of course, I am not speaking on the merits of the proposal. So far as the implementation goes, there is nothing in the Constitution as it stands today which empowers this Parliament to cede out any portion of the territory which is included within India that is Bharat. It is specific, clear and unambiguous. If it is thought necessary that this particular step should be taken, then what I would suggest is that this Bill should be withdrawn and a necessary amendment of the Constitution should be made so that the thing may be done properly and constitutionally. In this instance, the territory involved is very small. It really does not matter much. But the question of principle involved is a highly important one and we should not allow even Parliament much less the executive, to be given this power to cede out this territory which is included within the framework of the Constitution unless there is some specific provision made in the Constitution in that behalf and that is strictly followed. So far as the powers of Parliament go, there is no residuary power vesting in Parliament outside the four corners of the Constitution. It is our Holy Book, Bible, Gita or whatever you may call it and you must remain confined within its four corners. If we find that there is a lacuna which has to be covered, we should not proceed in a manner which may give rise to any feeling of fear or distrust in the minds of any section of the people but we should first amend the Constitution, withdraw this Bill and bring it up again in proper form.

**Dr. Ambedkar:** May I clear the point? It seems to me that Dr. Mookerjee's observations have reduced the point to very narrow limits. He concedes, if I understand him correctly, that there is the power of ceding territory under the entries to which I have referred. I believe it is difficult to imagine a case where the cession of territory will not involve the readjustment of the boundary of some province. At least I cannot imagine a case like that. Therefore, the question is one of procedure. If a law has to be made under any of the entries in List I or II of the Seventh Schedule, the ordinary procedure is the procedure of the Bill. Is that not so? You bring in a Bill; put it through the House in its three stages; the Bill is passed and the thing is complete. With regard to the provisions coming under Article 3, you have got to follow the necessary



procedure that has been laid down there. My submission is this. In deciding whether the ordinary procedure as to Bills is applicable to this case or whether the procedure laid down in Article 3 is applicable, we have to make reference to one single point and that is this: what is the main purpose of the Bill? Is the main purpose of the Bill to readjust the boundaries of Assam or is the main purpose of the Bill to cede territory to Bhutan and make the necessary consequential adjustments in the boundary of Assam from which this territory is taken? In a matter of this kind where both aspects are present (and must be present in any cession because cession must necessarily have the consequence of readjustment), my submission is that the procedure to be followed must be the procedure for carrying out the main purpose of the Bill and not the subsidiary or the incidental purpose. Although this Bill has been drafted in a way as to make readjustment of boundaries appear to be the main purpose, the real purpose is to cede the territory. That being so my submission is that the procedure which is prescribed by the Constitution to effect laws on any of the matters mentioned in the entries to the Seventh Schedule is the correct procedure, and Government has followed the most correct procedure laid down by the Constitution.

**Mr. Deputy-Speaker:** Even if it be an adjustment of boundaries, has not the prescribed procedure been followed?

**The Deputy Minister of External Affairs (Dr. Keskar):** It has been done.

**Dr. Ambedkar:** If that is so, then that point also does not stand.

**Mr. Deputy-Speaker:** The procedure has also been followed as laid down in Article 3. I therefore understand Dr. Syama Prasad Mookerjee to say that he does not concede the right of cession under entry 14 and that is why he says that a constitutional amendment is necessary.

**Shri Naziruddin Ahmad (West Bengal) rose—**

**Mr. Deputy-Speaker:** I do not propose allowing hon. Members who have already spoken when this matter was raised as a point of order yesterday to speak again.

**Shri Naziruddin Ahmad:** I simply referred to a Section and did not speak at all. I have a new point, a substantial point. I would take only five minutes.

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**Mr. Deputy-Speaker:** But I will be breaking the rule altogether.

**Shri Naziruddin Ahmad:** May I refer to a certain Section which will be a conclusive answer? New points have been sprung upon the House today.

**Mr. Deputy-Speaker:** He is well aware—he is an advocate—that as often as a new point is raised, the opposite side advocate cannot get up and say that he must have an opportunity. Once and for all his opportunity is lost. He must have anticipated those points. Yes, Pandit Bhargava.

**Pandit Thakur Das Bhargava (Punjab):** The point raised yesterday was whether Article 1 of the Constitution stood in the way of this Bill being passed. The point was almost conceded that so far as Article 2 was concerned, it had no relevancy to the question at issue and it was contended yesterday that part (3) did not apply. The only point on which objection was taken was that according to Article 1 territories could be acquired but no territories could be ceded. After hearing Dr. Ambedkar when he referred to entries 14 and 15, I thought that the point in dispute was whether entries 14 and 15 countenanced that by virtue of a treaty a portion of the Indian territory could be ceded without coming into conflict with Article 1 of the Constitution. But after hearing Dr. Mookerjee, who said that as a matter of fact if the treaty-making power is exercised then by virtue of that power the Government is competent to cede territory, I felt otherwise. If it is true that the treaty-making powers contained in entry 14 allow a cession of territory and there is no conflict with Article 1, then I do not think that the point raised yesterday has any force. If this point is conceded, then I do not think that there remains any point which requires any explanation or which can be contended against.

So far as precedents are concerned, the example of England has been quoted. My humble submission is that we need not go into that question at all, because in England there is no written Constitution. Here we have got a written Constitution and within the four corners of the Constitution itself we must find the provisions which give power to the legislature of the Government to cede the territory of the union. Therefore, I do not think any reference to English law or practice is necessary. Then again American precedent has been quoted. I am sorry I have not studied the authority cited and do not wish to go into it.

[Pandit Thakur Das Bhargava]

According to the statement of Objects and Reasons the Treaty of Friendship between India and Bhutan was concluded on the 8th August, 1949 and was subsequently ratified by Government of India. It is therefore clear that the treaty was concluded before the Constitution came into force. If that territory had not been ceded, and by virtue of this Bill we were to concede the territory then the question of contravention of clause 1 would arise. In 1949 there was no necessity for any law to be passed by Parliament. In accordance with the provisions of Section 290 of the Government of India Act, Government had only to pass an order. So what are we doing now? This is only a declaratory Bill. This only shows that the transfer took place then and we are taking cognizance of it today.

Clause (2) of Article 1 says that "the States and the territories thereof (of India that is Bharat) shall be the States and their territories specified in Parts A, B and C of the First Schedule." Part A of the First Schedule defines the territory of the State of Assam as "the territories which immediately before the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas." It is apparent that this treaty was concluded and the territory ceded before our Constitution came into force. I therefore, think that this Bill is misconceived and unnecessary. It should not have been brought in the form in which it has been done.

So far as Article 1 is concerned, the language is clear enough and does not provide for any cession of territory and if you allow this to happen you will be propounding a dangerous doctrine that what is not forbidden is allowed, further there is inherent power though not expressly given. This will be a very bad precedent. If that is the position, this measure can be proceeded with only after the Constitution is changed. Otherwise this Parliament is not competent to cede territory, even though Government may possess treaty making powers. When you cede a territory you naturally give away the nationals in that territory. We must at the same time try to reconcile clause 1 and entry No. 14. Unless a reconciliation can be brought, we cannot say that clause 1, a substantive cause has lesser force than entry 14 in a list. If this territory

was not ceded before the 26th January 1951 I am afraid there is no authority to do it now, unless the Constitution is amended.

**Dr. R. U. Singh (Uttar Pradesh):** I am a little surprised by the kinds of arguments that have been put forward in regard to the competence of Parliament to pass legislation to give effect to a treaty. Of course I have my own objections to the manner in which it is sought to be done. In fact I raised this very question during the Budget session this year again.

As regards the power of Parliament to pass legislation to give effect to the treaty, I have not the slightest doubt that the power does exist. It is not often that I find myself in agreement with Dr. Ambedkar but on this occasion I am in agreement with him. The present is one of those questions on which I am prepared to go very much farther than he has done. He has rightly pointed out. Sir, that treaty making power, as also the powers relating to war and peace and foreign affairs do give Parliament power to pass the necessary legislation to give effect to the treaty. In fact, Sir, in America as he has pointed out the question has been discussed at length. One authority goes so far as to say that even if the treaty making power was not there specifically vested in the Congress, it would be open to the Congress to cede territory. I have a large number of cases here, but I would refer only to one of them—a very famous case decided in the year 1936. The case is United States V. Curtiss-Wright Export Corporation. With your permission I would read certain observations from that judgment. It was said there:

"It results that the investment of the Federal Government with the powers of external sovereignty did not depend upon the affirmative grants of the Constitution. The powers to declare and wage war, to conclude peace, to make treaties, to maintain diplomatic relations with other sovereignties, if they had never been mentioned in the Constitution, would have vested in the Federal government as necessary concomitants of nationality..... As a member of the family of nations the right and power of the United States in that field are equal to the right and power of the other members of the international family. Otherwise, the United States is not completely sovereign."

I have not the slightest doubt about the soundness of this proposition. I will repeat that even if the provisions as they exist were not there I have no doubt that any court of law would hold that power vests in the Union Government as constituted under this Constitution to cede territory.

One writer makes the following observation on the question:

"Except as specifically limited by the Constitution a Federal Government in this regard must be deemed to possess all those powers which, by general international usage, sovereign and independent States are conceded to possess, and among such conceded powers is that of parting with as well as acquiring political jurisdiction over territory."

The power to acquire territory as also the power to cede territory is one of the attributes of a sovereign and independent State. Therefore the power must be said to vest, and our Constitution does not contain any prohibition in that regard. If the Constitution did contain any prohibition, then the position would be different. In the absence of any such prohibition I have no doubt that the constitutional position very clearly is that Parliament has got the power to pass the necessary legislation to give effect to the treaty. In fact in the circumstances of the case Parliament is certainly morally bound to give effect to the provisions of the treaty. Good faith between nations must certainly be maintained, irrespective of other things.

But what bothers me is not the power of Parliament in this regard, which certainly exists, but the form in which it is sought to be done. Dr. Ambedkar himself has admitted that the main purpose of the Bill is to cede territory and, incidentally, because the boundaries of the State of Assam are being affected, the other question arises. I regret very much to say that the legislation as framed, really speaking, is not a proper legislation. When the main purpose is to approve the cession of a certain strip of territory to Bhutan, then, necessarily, the legislation in question should be so framed.

One incidental question is of a great deal of importance. This cession was made in the year 1949, after India had attained an independent status. According to the position in English law the Crown has got the power to cede terri-

tory. But there are certain qualifications. Two of these qualifications are of importance in this connection. One of them is that whenever territory is to be ceded the approval of Parliament must be obtained. Further whenever a charge is sought to be made on public revenues, then also sanction of Parliament must be obtained. In this case a treaty was concluded, which the executive certainly had the power to do. But as the English law and practice stands, the chief executive is not competent to ratify any treaty unless Parliamentary approval has been obtained. That is the present legal practice, to which Dr. Ambedkar himself has referred. In this case, as Dr. Kaskar himself admitted yesterday, ratification, namely, formal acceptance of the treaty, was made a few months after the conclusion of the treaty. This ratification was not proper because, in a case like this, ratification must necessarily come after Parliamentary approval—ratification means formal acceptance of the treaty itself. In fact at this late stage we are morally bound to accept the provisions of the treaty. But there has been a violation of principles in this regard, namely, that the Governor-General ratified this treaty without the approval of Parliament.

If precedents were needed in this regard I could quote any number of them from 1890 onwards in England in all of which cases Parliamentary approval has always been sought to be obtained before ratification. Any ratification of this kind without the necessary approval of Parliament is not legal. They had two views on the question, but the better view is this. Oppenheim, the well-recognised international authority says.....

**Mr. Deputy-Speaker:** Cannot this Bill be treated as an attempt to have it ratified by Parliament?

**Dr. R. U. Singh:** As Dr. Ambedkar himself said it is sought to be done indirectly. It ought to be obtained in a direct manner.

**Dr. Keskar:** Regarding the point raised by my hon. friend, I will answer at the end—with regard to the contention that even the Governor-General had no power to assent to it.

**Dr. R. U. Singh:** The question of the boundaries of the State of Assam is a consequence of the cession. The cession must first be approved. I do not want to dilate on this question, but Article 3 of the Constitution comes in

[Dr. R. U. Singh]

only when the territories of a State are concerned. For example, if this Government ceded the Andamans to some State, then the provisions of Article 3 do not come in at all. The provisions of Article 3 come in only when the territories of a State are sought to be diminished. So it will not do to come before this House in this manner. It is setting up a bad precedent. The Governor-General ratified the treaty at a time when the executive did not have the power to do so. They have now come before this House for legislative sanction in a very indirect manner. The main point is being missed, namely, that Parliament must approve of the cession of territory. In this case the cession of territory is not being approved. Government have extremely able law advisers. I do not know how the point has been missed.

There are any number of English Acts on the question of cession of territory. I have one of them. The ordinary manner is something like this:

"Whereas by an agreement made subject to the approval of Parliament on such and such date provision is made for the cession by His Majesty to His Highness the Sultan of Iraq of the territory known as.....

And Whereas it is expedient to give such approval: Be it therefore enacted as follows."

This is the normal form for the approval of Parliament so far as cession of territory is concerned. I do not know why this result is sought to be achieved in an extremely indirect manner. As I have stated, I have great objections to this manner of seeking indirect approval of Parliament, for the simple reason that I want it to be established that whenever territory is sought to be ceded to any power then Parliamentary approval will be obtained in a very clear manner and not in this indirect manner. According to the view of the Government, if the Andamans were ceded to the United States it will not be necessary for them to come before this House because the Andamans are not part of any State whatsoever.

A suggestion was made yesterday that the strip of territory sought to be passed on to Bhutan is not a cession of territory at all but that it is merely a ratification or an adjustment of a boundary line. If we look to the provisions of the Treaty of Sinchura which was executed in the year 1865 and documents which are cognate

thereto it will be found that that was clearly a case of cession. I do not propose to read the entire Article which deals with it but shall refer to the last para. It was said there "that such and such territory is ceded by the Bhutan Government to the British Government for ever". Then, Sir, in Article 4 it is said "in consideration of the cession by the Bhutan Government of the territory specified in Article 2 of this treaty and the State Government having expressed....." The word used is "cession". Then, Sir, in the Proclamation which was issued in 1866, we find there are words which are of a great deal of interest in this connection. I am reading paragraph 3 of Proclamation Act 7 of 1866; "It is hereby declared that the territory ceded by Bhutan Government as aforesaid is annexed to the territories of Her Gracious Majesty the Queen of England". Further on it is said: "The ceded territory is attached to the Bengal Division....." Now, Sir, a large part of the territory was ceded as was conceded yesterday and only a small strip of territory is being handed over to the Government of Bhutan. If it was merely an adjustment of a boundary dispute, what is our position with respect to the rest of the territory which is not being ceded? A large portion was ceded by Bhutan in 1865 and a small portion of it is being returned now. This is a cession pure and simple and the question of any adjustment of a boundary line does not arise. The adjustment of a boundary line may be the consequence of such a cession, but legally, there is not the slightest doubt that the giving over of the territory to Bhutan is a cession in law. If it is a cession, then necessarily legal questions come in. The Bill is not in proper form and it ought to deal with the question of cession directly.

There are two other matters to which I should like to draw the attention of this House. We have been told that the Chief Minister of Assam made a statement that there was not a single national in this strip of territory sought to be transferred to the Government of Bhutan. I do not know whether this can be a fact. That in a strip of 32 square miles of territory there is no Indian national resident, I find difficult to believe. I do not think, Sir, that the Bhutan Government would have such a great deal of interest in merely forests, but there must be something or it may be that some people do not understand what the meaning of the term 'national' is. The Government of India ought to be in a position to tell us how many Indian

territory. They have not apparently made any inquiry in this matter. They rely on the statement of the Chief Minister of Assam made some time back in the Assam Legislative Assembly in regard to the number of Indian nationals. If there are Indian nationals, then an extremely important question arises to which Dr. Ambedkar himself has made a reference. These nationals have got a right to claim to be Indian nationals. In fact I can multiply instances from history wherein wherever territories have been transferred nationals of the particular State have had the option either to migrate or to retain their nationality. Now, Sir, I should like to be assured that really speaking there is no Indian national involved in this case and if an Indian national is involved in the case, then Government must necessarily tell us what the position is. I refer here to one of the well-known principles in international law that whenever a territory is sought to be transferred to another State then the persons of that territory have the right either to migrate to the territory of their former Government within a reasonable length of time or they have a right to keep their own nationality if they so desire.

One more point before I close and that relates to the treaties in general. More than once I have drawn the attention of Government.....

**Mr. Deputy-Speaker:** I thought the hon. Member was concluding his speech.

**Dr. R. U. Singh:** I will conclude in five minutes.

**Many Hon. Members:** After lunch.

**Mr. Deputy-Speaker:** Enough has been said yesterday and today regarding this matter of constitutional law. For and against have been sufficiently said. It is a very small Bill. Therefore the hon. House must come to a conclusion. I intend not to allow further long discussion after lunch.

Before we disperse, I would like to say this. A request has been made that with respect to the other work that stands in the agenda, the resolution that stands in the name of Shri Rajagopalachari may be taken up first tomorrow after the Question Hour. That relates to the President assuming to himself all the functions of the Government of Punjab. Sufficient notice has been given to hon. Members lest they should say that they have been taken by surprise. The House will now stand adjourned till 2.30 P.M.

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

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

[MR. DEPUTY-SPEAKER in the Chair]

**Dr. R. U. Singh:** Now, Sir, so much about matters relating to cession of territory to Bhutan and incidental thereto. There are one or two other matters directly arising out of this treaty with Bhutan which are of extreme importance in this connection and to which, with your permission, I wish to draw the attention of the House.

More than once, on the floor of this House, I have asked the Government to make a statement of their policy with regard to the making of treaties namely, to what extent and in what manner Government propose to associate the House with the making of treaties. The items relating to treaties and foreign affairs are included in the Union List; but, so far, Parliament has not made any law in that regard and Government have not made any statement of their policy as to the extent to which the House is going to be associated with treaty-making. With the solitary exception of the treaty with Iran, not one treaty made by this Government with any country in the world has been placed before the House. The House is unaware of the contents of any of the treaties. A very important point relevant in this connection is that by this very treaty—I somehow was able to secure a copy of it; I do not at the moment have a copy of the treaty with me—as far as my recollection goes, a recurring charge of five lakhs is being placed on the revenues of the Indian Government. I should like to have confirmation of this by hon. Minister.

**Mr. Deputy-Speaker:** Are we going into the details of the treaty now? We are not going into the details.

**Dr. R. U. Singh:** It is an extremely important point and one of the accepted principles in this connection is that no burdens shall be placed on the revenues except with the sanction of Parliament. This treaty has not been placed before the House. The House has not been asked to approve the treaty. Yet, the Government of India have either paid or are paying or will pay in future a sum of five lakhs of rupees per year. I have no doubt that it is an extremely important point.

**Mr. Deputy-Speaker:** Possibly it has been provided for in the Budget which has been sanctioned by the House.

**Dr. R. U. Singh:** That is an extremely indirect way of doing things. That is what I was trying to point out by saying that if treaties were placed before the House, that would be a good thing indeed. The House could know what its commitments are and the House could approve of the treaty or disapprove it. In every democracy, the practice is to associate the House with treaty making. In England, the practice that has been adopted is that treaties are placed before the House for a period of three weeks and if there is a demand for discussion, it is discussed and then the treaty is approved. All treaties creating a recurring charge on the revenues of the State and all treaties involving cession of territory, etc., are always approved by the House. Thus the treaties which the House wants to discuss, are discussed and treaties which create a burden on the revenues of a State or which involve cession of territory are always discussed. Here, in fact, we do not know what the terms of the treaty are. I doubt if any Member of this House is aware of terms of the treaty. When the question of cession arose, I wanted to know what the actual words of the treaty were and I had to get into touch with the hon. Deputy Minister to know that the words there are that such and such territory be "returned". I have no doubt that before the House is asked to take even steps consequential to the ratification of the treaty, the House must know what the terms of the treaty are. Even this treaty with Bhutan has not been circulated. I would suggest, in this connection, again, that Government might make a statement of their policy as to how they propose to associate the House in the matter of treaty making. Are they going to ask the House to approve every treaty or are they going to adopt the English practice namely to lay the treaties before the House for a certain period and allow discussion, if there is a demand, for discussion. Certain other treaties like those involving cession of territory or creating recurring charges or involving rights of the subjects, must always be approved by Parliament.

I shall sum up briefly what I have said. I have not the slightest doubt that this House is competent to implement the treaty that was concluded between the Government of India and the Government of Bhutan. But, ratification of the treaty has not been

legally done and is irregular. The approval of the House is absolutely necessary before the cession in question could be made. The Bill that is before the House does not deal with the question of cession directly and it is absolutely necessary that the Bill deals with the question of cession directly. The present Bill as it is before the House is not a proper Bill, and I have no hesitation in saying that the Bill in its present form cannot be passed by the House and ought not to be passed by the House. The House must be asked to approve the cession directly. The phraseology of the preamble must be changed. So also a proper clause must be inserted in the Bill. I have already spoken to the Deputy Minister for External Affairs as to what changes need be made in the Bill in order that the Bill might be a proper one. For example, the preamble should run somewhat like this: "Whereas by the treaty made on the 8th August, 1949 between the Government of India and the Government of Bhutan provision was made for the cession of a strip of territory in the State of Assam to the Government of Bhutan and set out in the Schedule to this Act, and whereas it is necessary that the approval of Parliament should be given to the cession, be it enacted as follows." Thereafter there should be a clause to say that "approval of Parliament is hereby given to the cession to the Government of Bhutan of the strip of territory specified in the Schedule". The Bill in its present form is irregular. I daresay that either the Bill should be withdrawn or should be suitably amended on the lines indicated by me before the House is asked to pass it.

**Prof. K. T. Shah (Bihar):** I have very few remarks to add to the debate, and would, in fact, not have intervened in this debate had it not been for the turn that was given to the Bill by the hon. the Law Minister by his explanation. I think hardly any time is necessary to be spent on the question that, if it is a cession of territory which this treaty contemplates, then it would be outside the Constitution; and I am afraid, try how you may, it would not be possible to include it in a mere re-arrangement of territory, as it is a direct deduction, or exclusion, or transfer of some territory of the Union of India from that entity to another independent State. Had Bhutan been a sister state of Assam, it would have been included in a mere re-arrangement of boundaries. Inasmuch as, *ex hypothesi*, Bhutan is an independent State, it is impossible to regard this by any extension of language as a re-arrangement of territory. That, there-

fore, is a rather weak ground on which, I think, they are well-advised not to take their stand completely.

The turn, however, given by the hon. the Law Minister, raises other questions, both of fact and of interpretation. I should like in this connection, to draw the attention of the House to the powers of the Legislature as given in Article 245 which definitely lays down that:

"Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State."

Sir, the important words here are "Subject to the provisions of this Constitution". Being subject to this Constitution, laws can only be made by Parliament in so far as they come within the four corners of the Constitution and are consistent with every provision of it. In this case, so far as the Constitution is concerned, Articles 1 to 3 are as much part of the Constitution as the Schedules, or any other Article that the authorities may rely upon. Being, therefore, part and parcel of the entire arrangement, being subject to the Constitution, I submit, it is not open to them, if it is in direct opposition to the Constitution, to make territorial re-arrangements of this kind, and pass this law as it is now proposed. The analogy of the British Constitution is inapplicable, inasmuch as England, as has been pointed out already, has no written Constitution, and, therefore, we have no reliable guide to go by. For it is common ground that the supremacy of the British Parliament extends to such a degree that it can undo its own legislation, its own enactments, it can defy its own precedents and make new precedents. The analogy, therefore, of the British Parliament should not apply as parallel in a case where a written Constitution has been provided.

The other analogy, also, if I may say so, that of the United States of America, is equally inapplicable, inasmuch as the entire scheme of the Constitution of the United States is totally different from the scheme that we have adopted. The United States, no doubt, has a written Constitution. But the powers of each organ of government, the legislature, the executive and the judiciary, are so completely exclusive of one another, that the analogy derived from the experience of

that country should not, in my opinion, apply to the case in hand. The United States have had many cases historically in the last 160 or 170 years of acquisition of territory; and adjustments have been made by the Executive, in which no question of this kind could occur. Whether it is Louisiana as early as 1804 or Texas or Alaska or the Philippines, which were acquired from Spain at the end of the Spanish War by conquest, the United States' history shows far more cases of conquest or territorial accession than of surrender or cession of territory, as this is described. Indeed, the Philippines Independence was more an act or devolution—a constitutional arrangement—such as has been made in this country or as has been made in Ireland, for the matter of that,—than a case of cession of territory.

A point was made by the hon. the Law Minister about the power of making and implementing the treaties as provided in item 14 of the Schedule, that by implication it involves this power of passing laws so as to involve cession of Indian territory. I submit with all respect that this doctrine of inherent power such as is implied here, is a very dangerous doctrine. For countries with written Constitutions to lay it down that that which is not provided for expressly is, by a parity of reasoning, to be included and must be taken as having been intended to be included is, in my opinion, a very dangerous argument and analogy to urge in connection with a matter like this. I would further point out that the cession of territory, such as is contemplated here, is clear. There is no disguise about it. In such a matter the American Constitution does not really give authority to the Legislature. The Legislature is in no way concerned, and therefore, only in so far as it should involve any kind of tax burden or changes of nationality or any other matter of consequence to the civic rights of the people of the United States, would the Legislature be concerned. I take it that it is not intended to convey by this analogy here that the Legislature is not concerned; and that it is an act of grace on the part of the executive to bring it at all before the House and that we ought not to look a gift horse in the face. That is a position which I trust the hon. Minister would not hold very strongly to.

The American analogy is further defective inasmuch as when it is a question of executive arrangement between the President and another State, the approval of the Senate is no doubt, necessary; and if the Senate does

[Prof. K. T. Shah]

not agree, the entire thing disappears. Remember the fate of the League of Nations. I do not know whether that is correctly the position so far as the British Constitution is concerned where unless it involves an additional charge upon the people in taxation, the prerogative power of the king may be taken to include the right of treaty-making.

And treaties do not necessarily and exclusively mean only means to end war, or to make peace as has been implied by the hon. Minister. There are treaties for regulating trade, treaties there are to regulate fishing rights, treaties there are for a number of subjects which do not either concern war or the making of peace. Therefore to rely on the argument that treaty-making is mentioned in Schedule Seven item 14 and that it covers this case is, in my opinion, stretching the parallel too far.

I feel that for a variety of reasons such as have been advanced in this House, this Bill seems to be rather ill-conceived or badly or hastily drafted. I trust that tempers would not be so touchy as to take offence at a very *bona fide* statement of one's impression on the actual objective characteristics of the measure before us. But I do think that in view of what has been urged in this House, and in view of what has been appreciated even by the Ministers themselves who now seem to be shifting their ground, I suggest that they would be well advised to reconsider this matter—this being a new measure—so that defects of this kind might be avoided and a smooth passage may be assured without any difficulty.

Let me only add that there is no question on merits that the treaty should be implemented and the arrangements of the territories such as are proposed may be made. We have no objection to that. No one I think, in this House has raised any question on that. But we are entitled to point out the constitutional defects as they appear to us. We do not claim a monopoly of wisdom. We do not even have the great erudition and experience and study that the hon. Law Minister justly commands. But we also have the right to point out what we consider as obvious flaws in the matter. For instance there is the inclusion of financial burden as part of the treaty which, as has been pointed out just now by a previous speaker, should not be included without the consent of Parliament. You, Sir, were good enough to add that that might have been included in the Budget. If

that is so, then it is correct; but unless pointed attention is drawn to it, as thousands and thousands of items occur in the Budget, I submit with all deference, it is not readily seen, unless it is carefully pointed out and the attention of the House is invited to bear upon it. So the constitutional difficulties that the other speakers have pointed out should not be brushed aside as mere matter of verbiage. There is something much more than that. It is not that by accepting this Bill we will be giving effect to a more or less unanimously agreed measure. It would create a precedent and once a legislation like this is allowed to go through without objection and once by that you establish a precedent, it would be always quoted. Therefore this very dangerous doctrine of inherent powers or implied powers such as have been quoted or relied upon ought to be avoided and no doubt should be left in the mind of anybody. This measure which has been found to be on examination defective and open to objection, even though on purely theoretical grounds, ought to be redrafted and submitted to the House in a less objectionable or no objectionable form.

**Pandit Kunzru (Uttar Pradesh) :** We all know that the treaty entered into by the Government of India with the State of Bhutan in 1949 requires that a strip of territory, measuring 32 sq. miles in area should be ceded to Bhutan. The Assam Government having approved of the cession (*interruption*), the matter having been also approved, so far as I know, by the External Affairs Advisory Committee, I do not propose to raise any objection to it in substance. I think that at this stage we are not called upon to give effect to this treaty but what we are concerned with now is what should be the proper relations between Parliament and the Ministry.

Whatever the inherent powers of the State may be is it desirable that the Chief Executive should, by virtue of the powers that it might enjoy, cede any part of the territory belonging to India to another State or should it, notwithstanding its powers, seek the previous approval of Parliament? That is the question with which we are concerned.

In England it was for a long time the undoubted prerogative of the Crown to cede territory. But things have changed considerably during the last sixty years, and since 1890 it has been recognised that whatever the prerogatives of the Crown may be, the



cession of territory should receive the prior approval of Parliament. Consequently when, for instance, Juva Land, was sought to be ceded to Italy, the matter had to be placed before Parliament. Earlier in 1905 when some territorial cession had to be made to France, by virtue of the Anglo-French Convention, the approval of Parliament was sought. There is no reason therefore why the Ministry should not seek the approval of Parliament directly for the cession to Bhutan of a part now included in the territory of India.

I understood Dr. Keskar to say yesterday that the Bill that was before Parliament showed the desire of the Government to obtain the sanction of Parliament before taking any step. I do not quite agree with him in his point of view. Government have not either in the Preamble or in the body of the Bill asked for the direct sanction of Parliament for the cession of the territory proposed to be ceded to Bhutan. All that they have done is to ask for the exclusion of the territory to be ceded from the State of Assam. This can be done under Article 3, part (c) of the Constitution, which empowers the Parliament by law to diminish the area of any State. In so far as we are being asked to agree to the exclusion from Assam of about 32 sq. miles of territory this provision is being complied with. But the Bill does not tell us what the Executive proposes to do with the territory proposed to be excluded from Assam. Indirectly we know what the intention of the Government is, why this territory is to be taken out of the State of Assam. But I contend that it would be more in accordance with modern practice in constitutional States and the correct relations that should prevail between Parliament and the Ministry that our approval should be expressly sought for the cession of the territory in question to Bhutan. The mere exclusion of territory from Assam does not serve our purpose. The Bill should on its face make its purpose clear. It should tell us that its object is to give effect to a certain treaty entered into between the Governments of India and Bhutan. There ought to be a provision in the Bill relating to the territory in question...

**Shri J. R. Kapoor** (Uttar Pradesh) : Was not the cession over in 1949?

**Pandit Kunzru**: According to the terms of the treaty the cession should have been made in the course of a year but I understand that the cession has not been completed as a matter of fact and that is why this Bill has had to be 205 P.S.D.

brought before the legislature. Had the territory been actually made over to the Government of Bhutan before the Constitution came into force, the need for placing the present Bill before us would not have arisen. We have been asked to consider the question because the cession has yet to be made, notwithstanding the terms of the treaty. I submit therefore that whatever the powers of the Government in international law may be, in India just as in England the present situation requires that every cession of territory should be approved of by Parliament before it is given effect to. That is the simple question that we are concerned with. We need not involve ourselves in the question of international or municipal law, though they are important from certain points of view. Really the main question before us is whether Parliament should or should not control whatever right the executive may be supposed to possess of ceding territory belonging to India. And I think that at the present time, in view of the developments that have taken place in other countries, there will not be a single Member of this House who will not agree with me in thinking that even if a square inch of Indian territory were to be ceded to any other State, and even though it might not be of any importance, at all, Parliamentary sanction must be obtained before it is parted with.

3 P.M.

**Shri Mallayya** (Madras): Sir, the question may now be put.

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

"That the question be now put."

The motion was adopted.

**Dr. Keskar**: Sir, I think the constitutional question involved in this Bill has been thrashed, I would not say threadbare but in detail and from all aspects, on the floor of this House today, by legal luminaries on both sides. I would not like to reiterate some of the arguments advanced on this side, or contradict some of those that were put forward on the other, but I would certainly like to mention two or three basic points which emerged from the debate today and reply to them as briefly as possible.

The most important opposition to the principle of the Bill was made by my hon. friend, Dr. Syama Prasad Mookerjee. His arguments boil down to this, that he has no objection to the Bill as such, that he considers that the Bill on its merits is a desirable thing probably, but as long as in the Consti-

[Dr. Keskar]

tution of India it is not specifically written that any territory of the Indian Union can be ceded before the Constitution must be changed before we can cede such territory. This is the argument that he put forward and which was repeated by some of my hon. friends on the other side. Sir, I will not go into the arguments put forward by the hon. Law Minister and by my friend, the hon. Dean of the Faculty of Law of the University of Lucknow, but I will say this that in no country and in no precept of constitutional law that I have yet seen has this principle been enunciated that a State must have express powers before it can either acquire or cede territory. It is a principle accepted by every authority of constitutional and international law that it is the inherent right and authority of a sovereign government and nation to wage war or make peace, to acquire territory or to cede it, and no constituted Government can function effectively unless it has such authority. I know that those who believe that every word must be written positively, otherwise it does not exist, might maintain a contrary principle but I am afraid I am unable to accept that principle. (*Interruption by Shri Kamath*) Well, my hon. friend is perfectly free to differ from me. I am not questioning his right to differ but I have also a right to differ from him.

**Shri Kamath:** Of course.

**Dr. Keskar:** I have at my back all the constitutional authorities that can be cited.

**Shri Kamath:** Question. I have at my back also.

**Dr. Keskar:** I wish I could see that.

**Shri Kamath:** I cannot see anything behind your back, but just empty benches.

**Dr. Keskar:** My hon. friend, Dr. R. U. Singh, in prefacing this principle also brought forward certain objections to the present Bill which he considers procedural and which should be amended before the Bill can be taken into consideration or before, he thinks, it can be considered a right and proper Bill. I will deal with only two points that he has raised. The first point is that in his opinion even before the coming into force of this Constitution it was necessary for the Dominion of India to obtain the sanction of its Parliament before it could cede any territory. He has

quoted many authorities in this respect. I am not quarrelling with the authorities that he has quoted but I would like to draw his attention to the fact that the English law which he quoted is itself not firm on this point, that there is a difference of opinion in the constitutional authorities in England with regard to this point, that differing judgments were given, and ultimately the Privy Council in the judgment that it gave in the appeal case 332 expressed the opinion that:

“Looking at the somewhat conflicting opinions which have been expressed we cannot say that the question is free from doubt, but we think that the sounder opinion is that the proposed convention might lawfully be concluded without the previous assent of Parliament.”

I am not trying to question the other authorities that he quoted but I am just drawing his attention to the fact that the authorities that he quoted are not unchallenged, that the supreme body of judicial opinion in England accepted that the King in his prerogative could assent to a treaty and cede territory without the consent of Parliament. Coming nearer home there was the question raised, I think twice or thrice, in Indian High Courts whether the Government of India then constituted had any authority to cede territory, and one High Court—I think the High Court of Bombay—decided that the Crown cannot cede territory without the authority of the Imperial Parliament. But that judgment was reversed by the Privy Council which said the Crown had the right without the consent of Parliament to cede any part of the then constituted British India.

**Dr. R. U. Singh:** That was in the ‘seventies’ but the law has changed since.

**Dr. Keskar:** The law has changed but contradictory opinions have also come up.

That was with regard to the constitutional objection of my friend which was applicable to before the Constitution came into force. I would like to draw your attention to one or two facts. As has already been pointed out, the Treaty was signed and ratified before this Constitution came into being. The Government of India has entered into an obligation to carry out that Treaty long before this Cons-

titution came into force, and according to Article 294 of the Constitution:

"All rights, liabilities and obligations of the Government of the Dominion of India and of the Government of each Governor's Province, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations respectively of the Government of India and the Government of each corresponding State".

I am simply drawing your attention to this to reinforce the argument and show the obligation that the Government has to carry out this particular Treaty which we have entered into before the Constitution came into force.

My hon. friend, Pandit Kunzru has raised the question of principle, that there should be a previous approval of Parliament to every treaty which cedes territory.

**Pandit Kunzru:** I did not make any such broad statement. I said every cession of territory must have the previous approval of Parliament.

**Dr. Keskar:** That was the principle which you were enunciating. He wanted that every cession of territory should be approved by Parliament first. I entirely agree with the suggestion and it is, in conformity with that principle that we have brought forward this Bill to get the approval of Parliament to an agreement and cession which was entered into before this Constitution came into being, and we wanted not to be open to the charge that we are doing anything, even though it was previously consented to, without the approval of Parliament. So, I hope he will appreciate the good intentions of Government in this respect.

With regard to what Pandit Kunzru said, namely, that in the Bill there is no such mention, I am quite agreeable to amend it to the extent that the word "cession" might be included. I am ready to put it in so that it will be quite clear and there will be no question that this is simply taking away some strip of territory from Assam which we do not know where it is going to be put. I entirely agree with the principle that he has enunciated in this regard.

I would not like, to go into the details of the other points that have been raised. There is one small point that Dr. R. U. Singh raised. It was a question of plebiscite, of taking

the opinions of people in a particular territory. It is a question of principle that he raised. If it is a big bit of territory that is involved and large numbers of people are affected, I entirely agree with him that the opinion of the people should be ascertained. But as was pointed out in the preliminary discussions, in this territory there are very few people. It is largely jungle area. Most of this population is nomadic. A large number of Bhotias come in the winter season from Bhutan into this territory and go back. Traders from this part of India go to the jungle areas and come back. This floating population is, I would not say, very large but much larger than the population which stationarily stays in this predominantly jungle area. So, when any question of a big territory comes in, the principle that Dr. Singh has put forward will certainly be seriously taken into consideration. But I submit that in this particular case the principle need not apply.

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

"That the Bill to alter the boundaries of the State of Assam consequent on the cession of a strip of territory comprised in that State to the Government of Bhutan, be taken into consideration."

The motion was adopted.

#### Clause 2.—(Alteration of the boundaries of Assam)

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

In page 1, line 6, after "Schedule" insert "which shall be ceded to the Government of Bhutan".

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

In page 1, line 6, after "Schedule" insert "which shall be ceded to the Government of Bhutan".

**Shri Kamath:** I find another lacuna in this Bill, pertaining to this clause, which perhaps escaped the notice of hon. Members including myself both yesterday and this morning. It may be argued that it is a mere technicality, but I think the House will agree when they read Article 3 carefully that there is some substance in the point I am about to make. If you read the language of the proviso to Article 3, it will be apparent that the resolution of the Assam Legislature has not been in consonance with the provisions of the Constitution in this regard. The proviso explicitly and specifically lays down that the views

[Shri Kamath]

of the Legislature of the State (here Assam) with respect to the proposal to introduce the Bill (here this Bill) and with respect to the provisions thereof must be ascertained by the President. The Statement of Objects and Reasons gives the text of the resolution adopted by the Assam Legislature on the 27th March, 1951. The resolution is more or less bald when contrasted with the requirements of the proviso to Article 3. The resolution reads as follows:

"The House recommends to the President of the Indian Union the transfer of about 32 square miles of territory in the Dewangiri hill block to the Bhutan Government as in the Schedule below in pursuance of the Treaty of Darjeeling of 8th August, 1949".

In my humble judgment the Legislature of Assam itself is not clear as to what territory exactly is about to be transferred. Mark the words "about 32 square miles of territory."

**Dr. Keskar:** But it says "as in the Schedule below". So I may correct my hon. friend. There is a regular map attached to the resolution and it gives the whole of the territory in detail.

**Shri Kamath:** I have seen the Schedule myself, but the Assam Legislature should have been as careful as we have been and said "32.81 square miles". However, that is only *en passant* or by the way. The real point is that the resolution of the Assam Legislature makes no mention of the Bill, as it should be done under the provisions of the proviso to Article 3 of the Constitution. It may be argued that it is a technical defect, but it is certainly a Constitutional defect. The Assam Legislature ought to have made a reference to and approved of the proposal to introduce this Bill in Parliament. I feel that at the time this resolution was brought up before the Assam Legislature, the proposed Bill was not before that body. To the extent that that Bill was not before that Legislature I feel that the provisions of the Constitution have not been complied with. They have also not been complied with in so far as another point is concerned, because the Assam Legislature has not expressed its views as regards the proposal to introduce the Bill in Parliament. That Legislature has only recommended the transfer of this territory, but the very essential condition of the proviso that the Legislature must express its views both

with respect to the proposal to introduce a Bill as also the provisions of the Bill has not been satisfied. Therefore, I submit that the consideration of this Bill by the House would be *ultra vires* of this Parliament under the Constitution. The only course is to remit the Bill back to the Assam Legislature and get their views on the Bill and then proceed with the consideration of this Bill. Without that, we have no *locus standi* under the Constitution and it is beyond our competence to take this Bill into consideration. I therefore submit that clause 2 is wholly out of order and should be rejected by the House.

**Shri J. R. Kapoor:** I rise to support clause 2 as it originally stood and I am definitely opposed to the amendment which has now been moved by my hon. friend Dr. Keskar, for that appears to be not only absolutely unnecessary, but is likely to create a very bad precedent inasmuch as according to my view what we are now required to do at this stage is not to approve the treaty which has already been entered into and further ratified as far back as August, 1949, but details of the treaty have now to be worked out. We have, therefore now only to proceed to enact necessary legislation under Article 253 of the Constitution which reads thus:

"Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body."

Now, Sir, according to the provisions of this Article we have the right to enact necessary legislation to implement any treaty. The treaty, as I have said, was completed as far back as August, 1949. It was thereafter even ratified by the Government of India and everything was definitely completed. All that now remains for this Parliament to do is not to ratify that treaty, not to sanction that treaty, not to give its approval, because it is beyond its scope now.

**Shri Kamath:** Then don't bring the Bill here.

**Shri J. R. Kapoor:** The Bill is necessary in its present form but the amendment that has been suggested is absolutely unnecessary, because this amendment would imply that we are

now called upon to express our opinion with regard to the advisability or otherwise of that cession. That, I submit, is beyond our scope. This Parliament came into being on the 26th of January, 1950 and by that time all necessary substantive actions with regard to the treaty were completed. It is only mere formalities, the mere working out of the details that was necessary. That of course took time and those details having been completed, we have now to enact legislation under Article 253 of the Constitution. In order to do that we find that it is necessary to alter the boundaries of the State of Assam. That being so, at this stage we have now to act under Article 3 of the Constitution. That is all that this Bill seeks to do.

I am afraid that the argument of the hon. the Law Minister rather than giving support to the Government case practically gave away the whole case. According to my view, this Bill has been very properly thought out and very carefully worded. I have carefully read and reread the statement of Objects and Reasons and the two little clauses of the Bill in order to find out whether really there was any substance in the argument of those hon. members who were opposing it. While arguing the Government case the hon. the Law Minister said that Article 3 of the Constitution has been only incidentally referred to and that the main object of this Bill is with regard to the ceding of the 32 square miles of territory of Assam to Bhutan. I submit, Sir, that certainly is not at all the object of this Bill. So far as the substantive work of ceding of the territory is concerned that was over in 1949. Now all that we have to do is to enact necessary legislation laying down the alteration of the boundaries of Assam and that is what the Bill seeks to do.

**Shri Kamath :** It does beyond the Constitution.

**Shri J. R. Kapoor :** I agree that we cannot go beyond the scope of the Constitution and that is exactly my stand. I entirely agree with my hon. friend Mr. Kamath and others that so far as the question of ceding of territory is concerned we cannot do it under the Constitution. Now, if today, on the 8th of August 1951, Government were to cede any territory, my submission is that they cannot do it under the Constitution. Therefore, I want them to take the stand and I take my stand on this ground that so far as the ceding of the territory is concerned that was all over in

1949. Now it is only implementing of the details, the carrying out of that, that we have to do and that we can certainly do under the Constitution and we have to do that by undergoing the formalities of Article 3 of the Constitution. The incorporation of this amendment concedes the principle of cession of territory. I certainly object to that. That we cannot do under the Constitution as it stands.

My hon. friend Prof. Shah referred to Article 245. The hon. the Law Minister argued that under entries 14 and 15 it is open to this Parliament to enact with regard to the ceding of territory. I submit it is not so. Though I agree that we can enact necessary legislation in order to implement the terms of any treaty arising out of war or peace, the terms of those treaties cannot go beyond and our legislation in respect of them cannot go beyond the scope of the Articles of the Constitution. Entry 14 or 15 cannot override the express provisions of any specific Article in the Constitution. Now Article 245 lays down:

“(1) Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the Legislature of a State may make laws for the whole or any part of the State.”

Under this Article and the subsequent Article 246 we have to interpret the entries 14 and 15 mentioned in List I of the Union List. So any legislation with respect to entries 14 and 15 must be in consonance with Article 245 and then Article 245 when read with Article 1 of the Constitution leads us to the incontrovertible conclusion that it is not open to Parliament under the present Constitution to cede any portion of territory. That being so I submit that it would be very unsafe for the Government now to be influenced by any arguments that have been urged so far by those who hold that the sanction of this Parliament is necessary, and they should not in hot hurry succumb to the temptation of moving this illconsidered, unnecessary amendment which will certainly create a very bad precedent. My submission therefore is that the original clause of the Bill as it stands should be accepted and passed. Acceptance of any amendment of the nature moved by Dr. Keskar, as I have already submitted, is not only unnecessary but would be very dangerous and would be enlarging the scope and object of this Bill which our Constitution does not permit.

**Shri Hussain Imam (Bihar) :** I do not wish to take the time of the House but will speak only for a few minutes on the facts as they stand. The Government has to choose between two courses. Either the change has to take place subsequent to the passage of this Bill, or it has already taken place and we are going to indemnify it. Two courses are open to them and they must choose between the two. If they choose the course that the change has already taken place and the pillars have been placed 1950—we do not know whether it was before 26th January, the Independence Day, or subsequent to it—but if it is the case of the Government that the change has not taken place, then the consideration of the House would be on that basis. But neither in their statement of Objects and Reasons nor in the speeches of any of their exponents have the Government clarified this position. If the change had taken place before the coming into effect of this Constitution, there is, I submit, no need for an Act because on page 205 of the Constitution you find...

**Mr. Deputy-Speaker:** May I submit to hon. Members that all these matters were debated at the consideration stage? I have been patiently hearing, but there is nothing new that has been said. Are we to be repeating what has already been said at the consideration stage when we are now on the clauses? This matter was discussed at the consideration stage. The hon. Member was not here.

**Shri Hussain Imam:** I read the newspaper report.

**Mr. Deputy-Speaker:** Of yesterday. There was further discussion today.

**Shri Hussain Imam:** I am asking the Government to explain...

**Mr. Deputy-Speaker:** They have already explained.

**Shri Hussain Imam:** Is it their position that the cession has to take place now?

**Dr. Keskar:** I have said three times that the territory has not been ceded.

**Shri Hussain Imam:** Then the treaty which we are now trying to honour would rather become very vague, because the treaty was entered into two years before.

**Mr. Deputy-Speaker:** There are only two or three points here. The first point is whether the hon. Member is against the cession of this territory. It does not matter that the

treaty was entered into two or three years before. If the agreement has been put off for some time it cannot become vague on that account. The other point is whether the House has jurisdiction to do so. These are the points. All of them have been thrashed out. We are now at the stage of a formal amendment so far as clause 2 is concerned.

**Shri Hussain Imam:** The point which Mr. Kamath has submitted that the Constitution provides that not only the matter should be assented to by the State Legislature but that the Bill also must be considered, is a very material point. Are we going to treat the Constitution as a scrap of paper or are we going to honour it by submitting to the processes given therein? The process may not be a material thing, but it shows what respect and sanctity we attach to the Constitution. In a democracy a written Constitution should not be brushed aside in the manner in which it is being brushed aside every day.

**Mr. Deputy-Speaker:** Is it a matter of substance? There are two ways. The initiative may proceed from the Parliament. The President could have a Bill ready and send it to the Legislature. Both with respect to the proposal and also with respect to the provisions he may ascertain their view. Or the Legislature itself may take the initiative. But the question is one of substance. Here the Legislature has passed, or moved the President to take steps in the form of a Bill, detailing the Schedule also. Does it make a difference?

**Shri Hussain Imam:** As was pointed out by Mr. Kamath, even the area is not given in the Resolution.

**Mr. Deputy-Speaker:** The hon. Member is trying to catch at a straw.

**Shri Hussain Imam:** The Government is trying to take shelter behind the fact that they have substantially carried it out. But we want that the letter of the Constitution should be followed. Otherwise we can say that we have made the Constitution only for the purpose of a show. The whole question boils down to one of supremacy of Parliament. Is the supremacy of Parliament to be subject to the Constitution or independent of the Constitution?

**Mr. Deputy-Speaker:** That is why it is before Parliament.

**Shri Hussain Imam:** Then it must come in the form in which the Constitution envisages it and not in the form

in which the executive government thinks it proper. You, Sir, have to discharge the function of judging whether it conforms to the Constitutional formula or not. If it does not, then you should tell it to the Government as well as the House, because you are the guardian not only of the dignity and powers of the House but of the Constitution also. It is on the Constitutional sanctity that we draw all our power and sanction. Without that where do we remain? Democracy will be finished if the Constitution is treated with the scant respect with which it is being treated now. Sir, I have nothing further to add.

**Dr. Tek Chand** (Punjab): Sir, I will confine my remarks only to the amendment which is before the House, the amendment which has been moved by Dr. Keskar and has been opposed by Shri Jaspal Roy Kapoor. Some hon. Members have observed that there has been confusion in the drafting of the Bill. But whether there is so or not, I may be pardoned for saying that there has been a great deal of confusion in the discussion that has taken place in the House, and such confusion has been caused more by the Spokesmen of the Government than by those on the other side. I will illustrate it by reference to 3 points. The hon. the mover, Dr. Keskar, began his speech by saying that all that he was going to do was merely to ask the House to change the boundaries of the Province of Assam under Article 3 of the Constitution. Today Dr. Ambedkar, who came to support the hon. mover, observed that Article 3 has nothing to do with the Bill. Then the second point...

**Dr. Keskar:** I am afraid the hon. speaker is not correct. It was said that Article 3 comes in incidentally. The statement that there was no question is not a fact. It was clarified on behalf of the Government that in order to change the boundaries of Assam Article 3 does come in.

**Dr. Tek Chand:** According to the report of yesterday's proceedings, Dr. Keskar said: that under Article 3 of the new Constitution any cession of territory requires the assent of Parliament and, therefore, this Bill has been brought forward for the assent of Parliament in order to comply with the provisions of Article 3. Dr. Ambedkar, however said that Article 3 has nothing to do with it; it may have something to do with it incidentally. That is one point on which the Minister in charge of the Bill and the Law Minister, who came to

support him, were at variance. Then Dr. Ambedkar emphasised that the Bill deals with the cession of territory to a foreign country, with which the Union had entered into a treaty. But the hon. the Prime Minister, who spoke yesterday, said that there was no question of cession in this case. This is what he said:

"Then, again my hon. friend Mr. Chaudhuri I think, rather confused the issue by bringing in Pakistan in the picture. That is a completely different thing which has nothing to do with this matter. Here we are talking about rectification of boundaries. Between whom? Not with a foreign country, but with a State with which we are intimately allied, whose defence, whose foreign affairs and communications and various other things are under our control. It is not technically speaking a part of the Union of India but is very closely allied and in some matters under the control of Parliament in regard to State subjects. One must look upon this not as though he was dealing with a foreign state but with a state which is technically a part of the Union of India and closely allied."

The Prime Minister went on to say: "it is not really a cession, that it is a very small rectification of boundary mostly of forest land".

Then Dr. Ambedkar, in further support of his argument said today that one of the reasons that it was thought necessary in England to bring such provisions before Parliament and we are following the English practice in such matters—is that the nationality of the persons living in the territory which is to be ceded, has to be changed and their rights to property etc., are affected. That was the reason which Dr. Ambedkar gave, but the Prime Minister said that there are no nationals of India in the 32 square miles in question, but all that we have got there are forests, trees, rocks, animals and nothing more. You will then find, that the reasoning of the hon. mover, the hon. Law Minister and the hon. Prime Minister, is inconsistent and self-contradictory and thus so much confusion has been created. With great respect, I venture to say that it is hardly befitting the dignity of the Government that a Bill of this kind should be introduced in this House and debated in this manner without a proper appreciation of

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the points involved and, indeed without necessary facts being placed before the House?

Coming to the particular amendment, here again we find similar confusion, caused by the failure of the Government to bring material facts before the House either in the statement of Objects and Reasons or in the speeches which have been made. My hon. friend, Mr. Kapoor has argued on the assumption that the territory had been ceded to Bhutan long before the Constitution came into force on the 26th of January, 1950 and therefore, the amendment of Dr. Keskar is unnecessary. He presumes that cession to Bhutan actually took place when the treaty was entered into and at any rate, when it was confirmed by the Constituent Assembly (Legislative) in August, 1949. Now what are the facts? Unfortunately they are not available in the papers which have been circulated or the speeches delivered. I asked Dr. Keskar to let me see the relevant clause of the treaty which was entered into in 1949 and he very kindly did so. The wording of this Clause is: "With a view to mark the friendship existing and continuing between the State Governments, the Government of India shall, within one year from the date of the signature of this treaty, return to the Government of Bhutan about 32 square miles of territory in the area known as Dewangiri." This makes it clear that there was no cession at all, no completed act of transfer in 1949 or at any other time. It was only an undertaking to return this territory, a promise to re-transfer it to Bhutan this undertaking has to be carried out, the cession has yet to take place and for this very purpose approval of Parliament is being asked by this Bill. To use the language of ordinary contracts, it was only an agreement to transfer and not a completed transfer. By such an agreement no title passed, and no transfer took place. The treaty of 1949 was therefore nothing more than an agreement between the Government of India and the Government of Bhutan that these 32 square miles of territory will be re-transferred or ceded within the period mentioned.

**Shri J. R. Kapoor:** Can I not sell my house and get the sale deed registered subject only to the condition that I will vacate it in one year?

**Dr. Tek Chand:** This is not a sale. Yes, you can, but the agreement to sell is different from completed sale, of which all essentials have been complied

with but only registration of the deed is deferred. Here what happened in 1949 was only an agreement to transfer. Therefore, the objection that Mr. Kapoor has raised that it was a completed act of cession and, therefore the amendment is not necessary, I submit with great respect, does not hold water. You may go back upon your undertaking and internationally it may be undesirable, morally it may be wrong, but no transfer or cession has taken place up to this time. For this purpose it is necessary to pass an Act in this House, and the amendment seeks to make the position clear and it must be accepted and not rejected for the reason given by Mr. Kapoor. My hon. friend is again repeating that there was cession in 1949. But may I ask him, which government had authority over these 32 square miles from 1949 till today? Supposing some months ago a murder took place in that area would the Assam Government not take cognizance of it, or would the Bhutan Government have had jurisdiction to try it because this treaty was entered into two years ago? Again, who exercised proprietary rights over the Forests and minerals in this area during the last two years? My hon. friend will agree that it is the Assam Government alone. That is the simple test.

**Shri J. R. Kapoor:** To that, the answer would be that the Indian Government was virtually acting as the agent of the State of Bhutan.

**Dr. Tek Chand:** There is no warrant for this assumption. Further if it was working as an agent, could there possibly be a treaty between the two Governments as master and servant. That would create more confusion and, indeed, destroy the whole basis of the hon. Member's argument. I would ask him not to make confusion worse confounded by putting forward such arguments.

The real position is that so far there has been no cession. The cession has to take place now. An agreement was entered into and to carry it out something further is necessary.

One word more before I sit down. Mr. Kamath has raised a further objection that the Assam Government has not complied with the proviso to Article 3. In other words, he says that the Assam Legislature should not have merely supported the "proposal" to transfer this territory, but it should have also supported each specific provision of this Bill. With great respect to him, may I ask, where does the proviso say that every clause of



the Bill which is sought to be introduced in Parliament must also be submitted to the respective State Legislatures and that they must express their opinion thereon beforehand? All that the proviso requires is that the "proposal", which is to be incorporated in the Bill to be introduced in Parliament must be approved by the State legislature concerned. Suppose there is an agreement between the State of the Punjab and the State of Uttar Pradesh that the Meerut district is to be transferred to the Punjab; the district of Karnal is to be transferred from the Punjab to the Uttar Pradesh, the Bill to be brought before Parliament is to contain numerous provisions. Is it the intention of the proviso to Article 3 that all the various clauses in the Bill should word for word, be discussed in, and approved by, the Legislature of both the States of the Punjab and Uttar Pradesh, before the matter can be discussed in Parliament? I submit, not. It is only the substance of the "proposal" that should be approved by the State Legislatures. Here, the proposal simply is that 32 square miles of Assam territory be transferred to Bhutan Government. That is all that is required and this has been done. Therefore, the proviso to Article 3 has been fully complied with. With the greatest respect to Mr. Kamath, I submit that there is no substance in the point which he has raised.

**Shri Kamath:** I reciprocate that respect.

**Dr. Tek Chand:** The next question is whether this House has the power to agree to the transfer of Indian territory to Bhutan.

**Shri Kamath:** That is the fundamental question.

**Dr. Tek Chand:** That is a very important matter. But the Constitution contains no specific provision expressly dealing with it. It would have been much better if such a provision had been incorporated in the constitution. But its absence does not make any real difference. In the absence of a special provision, what is the correct position? Some hon. friends have expressed the view that before giving the undertaking to Bhutan approval of Parliament should have been taken. I submit that is not the correct position. Do my friends contemplate that no treaty of any kind can be entered into by the Union of India until the matter is brought before Parliament? That would be an impossible position. It would reduce

the whole thing to an absurdity. Entering into a treaty is an executive act and has in the first instance to be done by the President. Article 53 says:

"The executive power of the Union shall be vested in the President....."

Entering into treaties is necessarily an act of the executive. Perhaps it is desirable to lay down some conditions for the exercise of this power and when the next amendment of the Constitution comes up, Parliament might incorporate them, in the Constitution as has been suggested by many Members here and emphasised by Pandit Kunzru.

**Shri Himatsingka (West Bengal):** What about Article 253?

**Dr. Tek Chand:** That comes later. First of all we have to see who has got the power to enter into a treaty under the Constitution as it is. That is the first part. In the absence of a provision to the contrary in the Constitution, it cannot be said that this executive act of entering into a treaty cannot be done by the President. It is an exercise of the executive power which vests in the President. Then the manner in which it is to be implemented, is governed by Article 253, which specifically says:

"Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India, for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body."

Therefore, we cannot say that this treaty was illegally made. The treaty was properly made, and for its implementation approval has to be sought from Parliament. That is the correct position.

Before concluding I have one word more to say. This Bill has come before the House properly and to put the matter beyond doubt, the amendment proposed by Dr. Keskar should be accepted, but for the reasons stated above and not, I submit again with great respect, for the reasons that Dr. Ambedkar has put forward. Dr. Ambedkar referred us to Willoughby's book on the American Constitution. I do not know if many Members of the House have read that book or even if they had read it, if they had in mind what the particular sections of this

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book referred to by Dr. Ambedkar, really meant. In the American Constitution, I submit, the position is entirely different and what the Supreme Court had to do in the cases referred to in these part of Willoughby was to decide the matter under the American Constitution. The U. S. Constitution had a specific Article II. . . . .

**Mr. Deputy-Speaker:** I think both hon. Members are ultimately coming to the same conclusion.

**Dr. Tek Chand:** I am finishing in a minute. I shall only give the reference and conclude. All the rulings, and the whole argument that was put forward with great force and vigour and plausibility, of which the Law Minister is a pastmaster, had really, I submit with great deference, nothing to do with the point now before the House. I shall only refer to clause 2 of section 2 of Article II of the U. S. Constitution. It says:

"The President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; . . ."

There is a specific provision there which is not in our Constitution. It has only to be implied. There, the clause specifically says that the President has the power to make treaties, but that before they become effective, two thirds of the Members of the Senate must concur.

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Then there is Section 2 of Article 6. —and that is the one which the Supreme Court was interpreting in all those cases—which says:

"This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the *supreme law of the land*, and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

It was argued that when a point of territory of a State is ceded, the President is trenching upon the powers of the State legislature and he cannot do that even with the consent of the Senate. That was the argument put forward. But that argument was rejected by the Supreme Court on the ground that under the Sixth Article

made by the President with the concurrence of the State were the supreme law of the land, and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding. This provision was quite clear and no State legislature nor any judge nor anybody else could override it. If a treaty is made by the President and confirmed by two-thirds of the Senate, the matter is at an end.

Therefore, I submit, Sir, with all deference, that all the flourish of big books and the rulings which were never read out, to the House by the Law Minister and about which Dr. Mookerjee, made some remarks which made the Law Minister angry, were wholly irrelevant. I submit that the Bill, as amended by Dr. Keskar's amendment be accepted by the House.

**Dr. Keskar:** Sir, I do not propose to reply in detail to the criticisms raised by my hon. friends because I find . . .

**Mr. Deputy-Speaker:** Does not the hon. Minister find that all of them have been answered by Dr. Tek Chand?

**Dr. Keskar:** And that is why I say that I do not propose to reply to them in detail now.

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

In page 1, line 6, after "Schedule" insert "which shall be ceded to the Government of Bhutan."

The motion was adopted.

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

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

**Clause 3.**—(Amendment of the First Schedule to the Constitution.)

**Shri Kamath:** Sir, I have to submit, that clause 3 is contrary to the provisions of the Constitution and I will show how it is contrary to the provisions of the Constitution, without repeating the points that have already been adumbrated in the House yesterday and to-day. If the House considers carefully this aspect of the matter it will see that what is sought to be done through clause 3 of the Bill is to bring about a change in the First Schedule of the Constitution which states:

"The territory of the State of Assam shall comprise the territories which immediately before

the commencement of this Constitution were comprised in the Province of Assam, the Khasi States and the Assam Tribal Areas."

That is the paragraph in the First Schedule as it stands to-day in the Constitution. What is sought to be done by Dr. Keskar is....

**Mr. Deputy-Speaker:** Removal of a portion of the territory?

**Shri Kamath:** The first point that I want to submit for your consideration and for the consideration of the House is that Article 4 which is an Article consequential to or subsequent to Articles 2 and 3 refers to the First Schedule and the Fourth Schedule. And you will also see that it lays down that any law referred to in Article 2 or Article 3 may contain such supplemental, incidental and consequential provisions (including provisions as to representation in Parliament and in the Legislature or Legislatures of the State or States affected by such law) as Parliament may deem necessary. From this it is clear, to me at any rate, that what is contemplated is not cession of territory.

**Mr. Deputy-Speaker:** Is the hon. Member arguing that the amendment is wrong?

**Shri Kamath:** What I want to point out is that the amendment in clause 3 is not an amendment which can be pressed within the scope of Article 4 of the Constitution. I would like to show how this is a change which amounts to an amendment under Article 368 and so the procedure contemplated in Article 368 must be followed and not the present procedure. Article 4 of the Constitution refers only to Articles 2 and 3 and not any amendment to Article 1. Amendment to Article 1 requires the procedure under Article 368 to be followed. Article 1 clearly states:

"(1) India, that is Bharat, shall be a Union of States.

(2) The States and the territories thereof shall be the States and their territories specified in Parts A, B and C of the First Schedule."

And the States and territories in Parts A, B and C are well defined and there can be no doubt about the provisions in the First Schedule. The Part A States are laid down and the territories of the States are also laid down. So also the Part B States and territories and Part C States and Part D—The Andaman and Nicobar Islands. The

wording or the phraseology of Article 1 is absolutely unambiguous and definite:

"The States and the territories thereof."

that is to say of India that is Bharat or the Union of States,

"shall be the States and their territories specified in part A, B and C of the First Schedule."

And further it says:

"(3) The territory of India shall comprise--

- (a) the territories of the States;
- (b) the territories specified in Part D of the First Schedule; and
- (c) such other territories as may be acquired."

Now, indirectly, this clause 3 seeks to bring about a change under Article 4, but really it is a change under Article 1 and if Article 1 is to be amended, the procedure is the one laid down under Article 368. Therefore inasmuch as the change that is sought to be made by this particular clause is a change in Article 1, clause (2) thereof, the procedure to be adopted is the procedure prescribed in Article 368 of the Constitution. Therefore this clause 3 and the whole Bill is out of order and *ultra vires* of this Parliament which must function within the Constitution. Therefore I submit that this clause be thrown out by the House, because it is a serious violation of the provisions of the Constitution and because the procedure contemplated or laid down specifically for a change in Article 1 has not been followed here. The Constitution has been defied—I will not merely say bypassed: it is too mild a word—the Constitution has been treated like a scrap of paper: it has not been accorded the sanctity or honour due to it, and I would again submit that this clause is definitely a gross violation of the provisions of the Constitution and must be rejected by the House.

**Mr. Deputy-Speaker:** I think this is only a consequential amendment. When once Article 3 has been passed, the consequential amendments have to be made in clause 3 here.

**Dr. Keskar:** The very important constitutional points raised by my friend Mr. Kamath are partly a repetition of the arguments advanced before.....

**Shri Kamath:** You do not understand them.

**Mr. Deputy-Speaker:** It is no use crossing swords like this.

**Dr. Keskar:** He has tried to put one Article of the Constitution against another. All these Articles form a sequence: they are not one against the other.....

**Shri Kamath:** Then put them all together.

**Dr. Keskar:** I listened to my hon. friend very carefully. I did not interrupt him and it is not right for a Member whom we listened to with great reverence should interrupt others.....

**Shri Kamath:** Quite right: go ahead.

**Dr. Keskar:** Articles 1, 2, 3 and 4 are together. All this is a sequence. Article 3 prescribes how you can change or modify the territories mentioned in Article 1. That is followed by Article 4. Any consequential amendments would not be considered as an amendment of the Constitution. I therefore submit that the arguments put forward by my hon. friend do not stand scrutiny. I therefore submit that clause 3 be passed.

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

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

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

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

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

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

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

**Shri E. K. Chaudhuri rose—**

**Mr. Deputy-Speaker:** Hon. Members should know the limited scope of the debate on the third reading of the Bill.

**Shri E. K. Chaudhuri:** Whenever I go wrong I am sure you will help me.

I would appeal to this House to pause and consider before taking the

fatal step of passing this Bill. I oppose the motion both on grounds of legality as well as propriety. I do not wish to say anything about the legality, about which we have had a lot of discussion already. I thank those hon. Members of this House who have taken such keen interest in a matter affecting the State of Assam. I feel that their interest was more on technical grounds than on the question of cession of territory. Before giving their vote either way I want the House to consider the following facts. First of all the area known as Dewangiri, to which reference was made by my hon. friend Dr. Keskar in his speech yesterday, is actually inhabited by Assamese traders. That is point No. 1. This area of 32 sq. miles is not inhabited at all by any Bhutanese. That is point No. 2. In this area of 32 sq. miles there are elephant mahals. They are of two kinds known as. . . . Here elephants are captured by Assamese people and a good trade in elephants is carried on in the interest of India. All that royalty goes to the Government of Assam. That is point No. 3. In this area there are vast grazing reserves where buffaloes belonging to Assamese people (Indian subjects) graze. They are a great advantage not only to the revenues of the State but also to the people of Assam. That is point No. 4. If these facts are correct—and I challenge the hon. Minister to say that they are not—even after knowing all these facts, does this House, do my Indian brethren who belong to places outside Assam, support the idea of taking entirely this portion and make it over to the Bhutanese? (*Interruption*). What are we to do?

The trade with the Bhutanese in that area is carried on by barter. The Bhutanese come there and sell their ponies, pups, chillies, saffron, etc. (they also bring blankets) and in return we give the Bhutanese salt, spices, cotton cloth, etc. Under the terms of the old treaty the Bhutanese are not allowed to come and settle in the 32 sq. miles. They are allowed, with the permission of the Indian officers on the border, in a particular season, namely winter, to come and carry on their trade. They have to come with permission, whereas we can go there without permission. We have right to go there and carry on our trade. If after knowing all the facts the Government of India simply give that area over to the Bhutanese and make us so much the losers and if hon. Members of the House support that idea, I shall then ask my people to think that the sympathy which people outside showed towards us after the

earthquake and the floods is mere lip sympathy. Instead of being a subject of India, in which Pandit Nehru is the leader and the dispenser of our fate, my people have now become the subject of a Bhutanese chief. (*Interruption*). If this treaty is actually acted upon, Pandit Nehru is no longer the leader of my people but somebody whose name I cannot utter or pronounce and I have to begin my culture all over again in an entirely different way. I do not want to disparage the culture of the Bhutanese but I would not advise my people in that area now to begin to learn or accept the culture of the Bhutanese. (*Interruption*.)

**Mr. Deputy-Speaker:** The Assam legislative assembly agreed to it.

**Shri R. K. Chaudhuri:** That is the mistake which we always commit.

**Shri Sidhya:** He says the Assam Assembly which is a most responsible body has approved it.

**Shri R. K. Chaudhuri:** Oh, I thought he was saying that Assamese and Bhutanese are akin.

My leader, the Prime Minister was telling the House yesterday that I was confusing the issue when I brought in the question of Pakistan in the course of the debate. I submit I have no intention of confusing any issue or of making any attack against Pakistan, but what I wanted to point out to the House was that I deprecate, as all hon. Members—all reasonable hon. Members—of the House must deprecate, this tendency of giving away part of our territories either to this party or to that party according to the exigencies of circumstances. I deprecate the tendency of adopting the line of least resistance. Here is a plot of land which Pakistan wants—"Give it to them; don't quarrel". Here is a plot of land which Pakistan claims: this is Tamavil, this is Dowki, which my hon. friend, Shri Gopalaswami Ayyangar referred to. The Assam Government said, "Give it. Why quarrel?" Then my hon. friend, Shri Gopalaswami said, "Give it, why quarrel? You Assamese are known to be docile people. Why quarrel?" So we give it up. Then there is the question of Bolaganj post office which is a Government of India post office. Pakistan says it is theirs and we say it is ours. Then Shri Gopalaswami says, "Don't quarrel. After all if the post office actually goes on you will be able to post letters there."

**The Minister of States, Transport and Railways (Shri Gopalaswami):** May I know if the hon. Member is writing a book of fiction?

**Shri R. K. Chaudhuri:** If I ever write one I shall dedicate it to my hon. friend—nobody will be able to appreciate it better.

Now that is the position. A fiat goes out from the Government of India telling the Government of Assam, "Look here, Chief Minister, here is a plot of land which Bhutan is wanting. You have got vast areas of land and you can just give this area to them."

**Shri J. R. Kapoor:** Is this land the same where it is said human beings can be converted into animals by magic?

**Shri R. K. Chaudhuri:** No, not this.

**Shri J. R. Kapoor:** Is it not Kamrup?

**Shri R. K. Chaudhuri:** But Kamrup is everywhere.

Now the Government of Assam never wants to fight with the Government of India. The Assam Government wants to live and let others live. But there is another great question. When the Government of Assam is asked to rehabilitate refugees, they have to say there is no land available for refugees. That is quite correct in the sense that agricultural land is not available in the quantity in which it is wanted. We have not enough land for our indigenous population. I entirely agree with that proposition. But why do you compel us to give away some of the best part of North Kamrup where flourishing cultivation is carried on? Our system of cultivation there is that we occupy a certain portion of land this year and cultivate it, next year we go to some other place. It is highly advantageous to the people of that area. This land is valuable for those people. Therefore you should not have ceded it without consulting us. Of course if the Government of India under section 290 of the 1935 Act had given away this land to Bhutan I would not have known anything about it, I would not have bothered about it probably, but now that you ask me to be a party to it, you ask me to be a party to the compulsory transfer of an area of land which is so useful to us, I cannot be a party to such a sacrifice, I don't see any reason for such a sacrifice. I have not been benefited in the least by the Bhutanese that I should feel compelled to give it as a gift to them. I will not do it. But if a monarch does it, if a Government which has unlimited powers had done it, I have nothing to say about it. But when you ask Parliament to do it, I most earnestly appeal to Members of Parliament not to be a party to such an act of injustice.

**Shri Kamath:** Today the 8th August is a day memorable in our annals, a day which has been hallowed by sacrifice for the freedom struggle, the day on which the *mantra* of 'Quit India' was given by Mahatma Gandhi nine years ago, and this Treaty also, the Indo-Bhutan Treaty, was concluded on the 8th August, 1949, exactly two years ago. It is an irony of fate that on this day we are parting with a bit of India, and I am sorry for the cussedness that Government has shown in this particular matter. We expected that they would act differently, in deference to the wishes of the House, but strangely enough they have been wise in their own conceit and I am sorry for them. The very moderate, reasonable suggestion of re-drafting the Bill was made, to which Dr. Ambedkar seemed to agree in his morning speech. He admitted as much, that the Bill might have been better if it had been drafted otherwise, and it appeared from the amendment that was sought to be proposed by Dr. Keskar that he too felt shaky about the wording of the Bill. It would have been better therefore if it had been re-drafted, but you, Sir, ruled that at this stage no amendment could be moved before the House, when Dr. Keskar sought to move his amendment. The only course which was open to the Government would have been, in the fitness of things, and if they were convinced, as Dr. Ambedkar was ready to admit and did admit, that the Bill was badly drafted, to re-draft it. That it was ill-conceived, I would not go so far as to say that, because the intention is good and there is no possibility of the Bill being ill-conceived. But I would certainly reiterate the charge that I have brought against the Government that they have bestowed no thought whatever on the drafting of the Bill. And I believe I am not wrong in saying that the Bill perhaps had not reached the highest level in the Law Ministry but must have been disposed of at some lower level where much thought had not been bestowed. It is therefore very necessary that such a Bill, a wrongly drafted Bill, a wholly improperly and badly drafted Bill should not have been placed before the House and should not have been forced upon this House. Government would have been wise if they had deferred to the wishes of Parliament and withdrawn the Bill or even amended it,—it may well have taken some time, say, two or three days—and got a suitable amendment to the preamble or the other clauses of the Bill, and then had the Bill passed by this House. You will see that even though the Statement of Objects and Reasons mentions the area to be ceded as about 32 square miles,

the territory has not been surveyed or demarcated and that it could not, therefore, be handed over to Bhutan immediately. Without demarcating or surveying it I don't know how any area can be described as 32.81 square miles. I can understand if it had been put as about 32 square miles, but here it has been described mathematically exactly as 32.81 square miles and yet it has not been surveyed or demarcated! I have studied and put into practice a little of Land Revenue Law and I feel, from the little experience I have had of revenue law and land survey; that the area of any territory cannot be mentioned in mathematically exact terms unless it is demarcated and surveyed. Therefore, to my mind the body of the Bill and the Statement of Objects and Reasons has been drafted very cursorily and very perfunctorily and it was an insult to the House to have brought before it such a badly drafted Bill and to have pressed it upon this House without acceding to the wishes, the clearly expressed wishes, of the House that the Bill be drafted again, that it be postponed for two or three days and the redrafted Bill brought before the House in suitably amended form. I cannot therefore support this measure. I would appeal to my hon. friends to throw out the Bill.

**Dr. Keskar:** I would like to reply very briefly to both my hon. friends who have to some extent repeated their arguments. My hon. friend Shri Rohini Kumar Chaudhuri has made a sentimental appeal to this House not to give away a precious part of the territory of Assam and force the people (I do not know the number of people he mentioned) under the chieftainship of a person whose name he cannot pronounce.

**Shri R. K. Chaudhuri:** How many Bhutanese are there?

**Dr. Keskar:** You may first give the number of Assamese there. I have great respect for my hon. friend and great affection, but I question his right to represent the people and Government of Assam or to give to this House formally their opinions and their sentiments. We have with us in very clear terms the opinion and the very detailed opinion of the Chief Minister of Assam and we have also a very clear resolution of the Assam Legislature, and my hon. friend Shri Rohini Kumar Chaudhuri represents the Assam Legislature here and not the province of Assam. If there is any conflict of opinion between the two, I hope the House will accept that it is the Legislature of Assam whose opinion shall be accepted as representing the opinion of the people of Assam.

श्री भट्ट : क्या आसाम का रिजो-  
ल्यूशन सर्व सम्मति से था या उस का कुछ  
विरोध था ?

[Shri Bhatt (Bombay): Was the resolution of the Assam Legislature a unanimous one, or was there any opposition to it?]

Dr. Keskar: Yes, it was a unanimous resolution. I might inform my hon. friends that before this Bill was brought for the consideration of the Legislature of Assam, the matter was first referred to the Government of Assam who went into the details of the question, saw the territory and after we had a report from the Chief Minister of Assam.....(Interruption.)

Shri R. K. Chaudhuri: May I know whether the opinion of the Assam Assembly was given before the treaty was entered into? Was it before or after the treaty that this resolution was passed?

Dr. Keskar: The resolution was passed on the 27th March, 1951 and the treaty had been concluded in 1949.

Shri R. K. Chaudhuri: So what else could they do?

Dr. Keskar: No, Sir, I am afraid many Members of the House in Assam like my hon. friend here would certainly and in very clear terms have expressed to the Government that they disapproved of this cession and that they would approve of it because the Government of India had already signed the treaty.

Shri R. K. Chaudhuri: Has the hon. Minister read the report of the speeches?

Dr. Keskar: I have got the proceedings here. I again repeat that when my hon. friend claims that the people staying in this territory are all Indians and that there are no Bhutias, he is trying to put forward something which is in contradiction to the very clear statement we have from the Chief Minister of Assam who in his report has stated that a very major portion of this area is jungle land in which Indians also have trade contacts. He was referring to the elephant mahals: yes, elephant mahals where people go for hunting and also buffalo hunting to which he was referring. But the stationary population there is very little. In view of the very clear verdict of the Legislature of Assam and the opinion of the Chief Minister, I think the criticism that he has put forward is off the mark and is not representative.

My hon. friend Mr. Kamath has again put forward his protest. I would not like to reciprocate his claim of cussedness against Government because I do not want to speak in the same language as he does, but I certainly am ready to listen to him in spite of his accusation with very great interest and if he makes any points, certainly reply to them to the best of my ability. I maintain that no Article or even the spirit of the Constitution has been violated and it has been made clear during the course of the debate that whatever we have done has been done after the whole thing has been gone into carefully. He has been referring to bad drafting. He wanted the draft to be made in a particular way, but I am not sure whether the redrafting would make my hon. friend accept the principle.

Shri Kamath: Bring it up, and then I will tell you.

Dr. Keskar: Why do you want to try again? Therefore, I do not want to repeat the same arguments that I had put forward before when replying to my hon. friend's arguments which he put forward when I proposed my amendment.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

ANCIENT AND HISTORICAL MONU-  
MENTS AND ARCHAEOLOGICAL  
SITES AND REMAINS (DECLARA-  
TION OF NATIONAL IMPORT-  
ANCE) BILL.

مسٹر آف ایجوکیشن ( مولانا  
آزاد ): جناب میں تحریر کرتا ہوں  
کہ جو بل اس بارے میں پیش کیا  
گیا ہے کہ ہندوستان کی کچھ پرانی  
عمارتیں اور آرکیولوجیکل سائٹس  
(Archaeological Sites)  
نیٹل (National) اہمیت کی  
(importance) کی جگہیں تسلیم کی  
جائیں۔ اس پر فوراً کیا جائے۔ یہ بل  
بہت ہی مختصر ہے۔ چند سطروں میں

[مولانا آزاد]

ختم ہو گیا ہے۔ اس کا مطلب صرف یہ ہے کہ کانستٹیوشن (Constitution) کی رو سے ایک دو ضابطہ کی باتیں جو اس سٹریٹس کو کرنی چاہئے تھیں وہ کر دی جائیں۔

اس وقت تک جو انتظام چلا آتا تھا وہ تین حصوں میں بٹقا ہوا تھا۔ کچھ جگہوں کا انتظام جو نیشنل امپائرٹینس کی تھیں ڈائریکٹ (Direct) سینٹرل گورنمنٹ (Central Govt.) کرتی تھی جس کے لئے سنہ ۱۹۴۳ء سے ایک خاص ڈیپارٹمنٹ قائم ہو چکا ہے۔ کچھ جگہیں ایسی تھیں جو پراوینشل گورنمنٹوں کے انتظام میں چھوڑ دی گئی تھیں اور وقتاً فوقتاً سینٹرل گورنمنٹ ان کو مدد دیتی تھی۔ کچھ جگہیں ایسی تھیں۔ اور ان کی ہی بہت بڑی تعداد تھی جو انڈین اسٹیٹس (Indian States) میں تھیں۔ ان کا انتظام انڈین اسٹیٹس کے ہاتھ میں چھوڑ دیا گیا تھا۔ ان ریاستوں کا یہ حال تھا کہ کچھ ریاستیں تو خاص طور پر ان میں دلچسپی لیتی تھیں اور انہیں اچھے طریقے پر رکھتی تھیں جیسے حیدرآباد۔ میسور۔ چنور۔ کچھ ریاستیں ایسی تھیں جنہوں نے اس طرف زیادہ دھیان نہیں دیا تھا۔ جب کبھی گورنمنٹ آف انڈیا کے علم میں یہ بات

آتی تھی کہ کسی خاص ریاست میں برابر بے توجہی کی جا رہی ہے تو گورنمنٹ اسے توجہ دلاتی تھی اور اگر ضرورت ہوتی تھی تو اکسپریٹ افسروں کو بھیج کر کام کی نگرانی کرتی تھی۔

اب کانستٹیوشن نے ان کی دو قسمیں کر دی ہیں۔ ایک قسم تو ان جگہوں کی ہے جو نیشنل امپائرٹینس کی ہیں۔ ایک وہ ہیں جو نیشنل امپائرٹینس کی نہیں ہیں۔ جو نیشنل امپائرٹینس کی ہیں وہ براہ راست سینٹرل گورنمنٹ کے انتظام میں رہیں گی۔ جو جگہیں ایسی ہیں کہ وہیں تو پرانی اور ان کی ایک ہستاریکل (Historical) قیمت بھی ہے لیکن ہم ان کو اس طرح کی جگہوں میں نہیں لائے جگہ جو نیشنل امپائرٹینس کی ہیں انہیں اسٹیٹس کے ہاتھ میں چھوڑ دیا جائیگا۔ یہ بل اس لئے پیش کیا گیا ہے کہ کانستٹیوشن کی اس تقسیم کے مطابق سینٹرل لسٹ کو نیشنل امپائرٹینس کی جگہ دیدی جائے۔

اس بل کے پیش کرنے میں دیر اس لئے ہوئی کہ یہ ریاستیں جو اب پارٹ بی کے اسٹیٹوں کی حیثیت رکھتی ہیں ملک کے مختلف دور دراز حصوں میں پھیلی ہوئی ہیں۔ ان تمام مقامات کی ایک ایک پرانی عمارت اور تاریخی جگہ کا معائنہ کرنا تھا اور پوری طرح دیکھ بھال اور



جچھائی کے بعد راولے قائم کرنی تھی۔ ہم نے یہ کام تھیاترمنٹ کے ذمہ دار آدمیوں کے سپرد کیا۔ اور اسٹیٹ کورنمنٹوں سے یہی درخواست کی کہ اس بارے میں اپنی رپورٹیں مرتب کر کے پیش کریں۔ جہاں تک ان ریاستوں کی پبلک باقیہ (Public bodies) کا تعلق ہے تھیاترمنٹ نے انہیں بھی نظر انداز نہیں کیا، اور کوشش کی گئی کہ معائنہ کے وقت اس کے نمائندوں کو بھی دعوت دی جائے اور مقامی رایوں سے بھی فائدہ اٹھایا جائے۔ تقریباً ایک برس اس کام میں نکل گیا کیونکہ تھیاترمنٹ کے افسر اس کام کو لگاتار جاری نہیں رکھ سکتے تھے۔ فرصت نکال نکال کر کام انجام دیتے تھے۔ چنانچہ سال بھر کے معائنہ اور غور و فکر کے بعد وہ لسٹ تیار کی گئی ہے جو اس بل کے شیڈول دی ہے؟ میں آپ دیکھ رہے ہیں۔ کلاس دی ہے؟ اسٹیٹ کی جو جگہیں آپ کو اس لسٹ میں نظر نہیں آئیں گی ان کے لئے یہ خیال نہ کیجئے گا کہ ان کی حفاظت نہیں کی جائے گی یا ان کو پرانی جگہ سمجھ کر وہ جگہ نہیں دی جائے گی جو ان کو ملنی چاہئے۔ نہیں۔ حفاظت تمام پرانی تاریخی جگہوں کی کی جائے گی خواہ انہیں اس اسٹ میں رکھا گیا ہو یا نہ رکھا گیا ہو۔ جن جگہوں کو اس لسٹ میں نہیں رکھا گیا ہے ان کی حفاظت

اسٹیٹ کریگی۔ جن جگہوں کو اس لسٹ میں رکھ دیا گیا ہے ان کی حفاظت اب سنٹرل گورنمنٹ کریگی۔ جہاں تک حفاظت کرنے کا تعلق ہے، اس کے سوا اور کوئی فرق دونوں قسموں میں نہیں ہے۔

بہت سی چیزیں اس میں آپ کو ایسی نظر آئیں گی کہ ان کو لسٹ میں رکھا گیا ہے لیکن اسی جگہ کی بعض دوسری جگہیں چھوڑ دی گئی ہیں۔ اس کی وجہ یہ ہے کہ جو جگہیں لی گئی ہیں ان کے لئے ایسے وجوہ موجود تھے کہ ہم نے خیال کیا وہ نیشنل اسمبارٹمنٹس کی جگہیں ہیں۔ مثلاً اولڈ پور کو لیجئے۔ یہ راجپوتانہ کی سب سے پرانی ریاست ہے۔ وہاں بہت سی چیزیں ایسی ہیں جن کا تاریخ سے بہت مضبوط لگاؤ ہے اور جن کی خاص اہمیت ہے۔ لیکن آپ دیکھیں گے کہ ساری جگہوں کو ہم نے نہیں لیا۔ صرف خاص خاص جگہوں کو لیا ہے۔ ہم نے چتوڑ کوہ کے قلعے کو لیا ہے کیونکہ چتوڑ کوہ کا قلعہ وہ جگہ ہے جس کی راجپوتانہ کی تاریخ میں خاص اہمیت ہے۔ مہارازہ پرتاپ کی پوری ہسٹری اس کی دیولوں پر لکھی ہوئی ہے۔ متجے افسوس کے ساتھ کہنا پرتا ہے۔ کہ ریاست نے اس کی دیکھ بھال کی زیادہ فکر نہیں کی تھی۔ اس کی حالت بہت خراب ہو چکی ہے اور ضروری ہے کہ ایک اچھی رقم خرچ

[مولانا آزاد]

کر کے اس کی نئے سرے سے مرمت کی جائے—ہم نے پچھلے برس کے بجٹ میں ایک رقم اس غرض سے رکھی تھی لیکن چونکہ یہ بل پیش نہیں کیا جا سکا اس لئے ہم اس کی مرمت کا کام شروع نہیں کر سکے۔

ایک اور بات یہی میں آپ سے کہہ دوں - یہ بات کہ پارت دہ بی ۲۲ ریاستوں کی پرانی اور تاریخی جگہوں میں سے کون سی جگہ ایسی ہے جسے نیشنل ایمپارٹینس کی لسٹ میں رکھا جا سکتا ہے اور کون جگہ ایسی ہے جسے اس لسٹ میں رکھنا ضروری نہیں؟ ایسی نہیں ہے جس میں ایک سے زیادہ ریلوں کی گڈجائٹس نہ ہو۔ ہو سکتا ہے کہ کچھ جگہیں اس لسٹ میں آپ کو ایسی دکھائی دیں جو آپ کے خیال میں نیشنل ایمپارٹینس کی نہ ہوں، یا کسی جگہ کو آپ خاص اہمیت دیتے ہوں اور اس کا نام آپ کو اس لسٹ میں نظر نہ آئے، لیکن اس طرح کے معاملوں میں ہمیں ان لوگوں کے فیصلہ پر اعتماد کرنا پڑتا ہے جنہیں ہم نے یہ کام سونپا کیا ہے اور جو اس کام میں ایکسپٹ (expert) سمجھے گئے ہیں۔ اس کے علاوہ جہاں تک نئی جگہوں کے بڑھانے کا تعلق ہے ہم یہ لسٹ منظور کر کے آئندہ کے لئے سوچو اور فکر کا دروازہ بند نہیں کر رہے ہیں۔ اس لسٹ میں اور نام بڑھائے جا سکتے ہیں۔

اس وقت بھی سینٹرل گورنمنٹ جن پرانی جگہوں کی دیکھ بھال کر رہی ہے وہ ایک ہی مرتبہ نہیں لے لی گئی تھیں پچھلے تیس چالیس سال کے اندر ایک کے بعد ایک ان کا معاملہ گورنمنٹ کے سامنے آیا اور گورنمنٹ انہیں لیتی گئی۔

اس بل کا پہلا حصہ سنہ ۱۹۰۲ء کے ایکٹ سے تعلق رکھتا ہے، اس کا منشا یہ ہے کہ سنہ ۱۹۰۲ء کے ایکٹ کی رو سے جتنی جگہیں سنٹرل گورنمنٹ کی نگرانی میں آ چکی ہیں، وہ اب نیشنل ایمپارٹینس کی تسایم کو لی جاتی ہیں۔

اس کے علاوہ اور کوئی چیز آپ سنہ ۱۹۰۲ء کے ایکٹ میں نہیں کوپینگی۔ اس کے جو دوسرے سیکشن ہیں وہ سب قائم رکھینگے اور ان کی رو سے ہمیں پورا موقع حاصل ہو گا کہ ہم جس جگہ کو چاہیں اپنی حفاظت میں لے لیں۔

ہمارا نیا کانستٹی ٹیوشن دراصل سنہ ۱۹۰۲ء کے ایکٹ کا نفاذ تمام ملک میں تسلیم کر چکا ہے۔ صرف پارت دہ بی ۲۲ کی ریاستیں اس کے نفاذ میں نہیں آئی تھیں اس لئے اس بل کی دوسری دفعہ اس لئے رکھی گئی ہے تاکہ پارت دہ بی ۲۲ کی خاص خاص جگہیں بھی سنٹرل گورنمنٹ کی نگرانی میں آ جائیں۔ اس کے لئے ضروری تھا کہ ان تمام جگہوں کی لسٹ

بل میں پیسہ کر دی جائے - چنانچہ  
 دوسرے شہیدیوں میں انکی لسٹ  
 دیدی گئی ہے -

میں سمجھتا ہوں کہ یہ بل  
 ایسا ہے، جس میں کسی بھٹک کی  
 ضرورت نہیں ہے - ایک صاف معاملہ  
 ہے اور ضابطہ کی کارروائی کرنی ہے -  
 مجھے امید ہے کہ کم سے کم وقت میں  
 یہ منظور ہو جائے گا -

(English translation of the above  
 speech)

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

"That the Bill to declare certain ancient and historical monuments and archaeological sites and remains in Part A States and Part B States to be of national importance and to provide for certain matters connected therewith, be taken into consideration."

This is a very small Bill and runs into a few sentences only. The only object in moving this Bill is that one or two formalities which are required to be performed by this House under the provisions of the Constitution should be performed.

The arrangements with regard to these sites were divided into three categories so far. Some sites of national importance were directly managed by the Central Government, for which a special Department was established in 1904. Some of the sites were left to the management of the Provincial Governments and the Central Government used to help them from time to time. A number of such places were situated in the Indian States and the responsibility of their management was left to those very States. The position was that some of the States used to take a special interest in these monuments and used to keep them in good condition. In this connection the names of Hyderabad, Mysore and Jaipur States can be mentioned. There were others which did not pay due attention to them. Whenever it was brought to the notice of the Government of India that any particular State continued to ignore

those monuments, they used to draw their attention to that fact and, if necessary, used to send expert officers to look after their repairs.

Now in accordance with the provisions of our Constitution these sites have been divided into two categories. One category comprises of those sites which are of national importance and the other those which are not of national importance. Sites and monuments of national importance would continue to remain directly under the management of the Central Government. As regards the other sites which are no doubt ancient and are of historical importance but which in no way can be kept under the former category i.e. sites of national importance, the responsibility of their up-keep would rest with the States. This Bill has been introduced for the purpose that in accordance with the provisions of the Constitution the central list should be given a place of national importance.

The reason why this Bill has been delayed so long is that all the Indian States which form the Part 'B' States now are spread far and wide throughout the country. We had to visit each and every ancient monument and historical site in these States and after complete investigation and examination had to form an opinion about them. We left this work to the responsible persons of the Department and also requested the State Governments to prepare their reports in this connection and submit them. So far as the public bodies of these States are concerned, the Department did not ignore them and efforts were made to invite their representatives as well at the time of the inspection and to take advantage of local opinion as well. This took about a year, for the officers of the Department could not attend to this work continuously. They could do this work only when they could be able to find time. And it was after about a year's inspection and thought that this list, which you find in Schedule B, was prepared. About those sites of the Part 'B' States, which one would not find in this list one should not presume that they would not be looked after or would not receive their due place as ancient monuments. No, this is not so. In fact all the important historical sites will be protected notwithstanding whether they have been included in this list or not. The sites which are not included in the list, would be looked after by the States Governments. The sites which are included in the list would be looked after by the Central

[Maulana Azad]

Government. So far as the question of preservation is concerned there is no other difference in these two categories. You will find that some of the monuments on a particular site have been included in the list while others on the same site have been left out. The reason for this discrimination is that there were certain grounds for considering these sites, which have been included in list, as sites of national importance. For instance, take the case of Udaipur. This is the oldest State in Rajputana. There are a number of ancient monuments which have a deep relationship with history and which have special importance. But you will find that we have not included all 'hose sites in this list; we have taken only some particular sites. We have included the Fort of Chittor Garh in this list because it enjoys special importance in the history of Rajputana. The complete history of Maharana Pratap is written on its walls. I am sorry to say that that State had not paid due attention towards its up-keep. It is in a very bad condition and would have to be repaired at a considerable expense. We kept a sum for this purpose in the last year's budget but because this Bill could not be introduced so far, we could not take up the repair work.

I may tell you one thing more. The question of selection of ancient and historical sites in Part 'B' States for inclusion in the list of sites of national importance is not a question on which there can be more than one opinion. It is possible that there may be some sites which, though in your opinion, are not of national importance, are included in the list; or some sites, which in your opinion are of national importance, are not included in the list at all. But in these matters we have to depend upon the decisions of those experts who were entrusted with this job. Besides, so far as the question of inclusion of new sites is concerned, we do not, by adopting this list, close the door to further consideration for all times. More sites can be included in this list. Those sites, which are being looked after by the Central Government at present, have not been brought under supervision all at once. During the last thirty or forty years their cases came up before the Government one by one and they took them over.

The first part of this Bill relates to the Act of 1904. It intends to recognize all those sites which have already come under the supervision of the Central Government in accordance with

the provisions of the Act of 1904, as sites of national importance. Besides this there would be no change whatsoever in the Act of 1904. All other sections of that Act will remain in tact, and in accordance with those sections we shall have every right to take over any other site as well.

In fact our new Constitution has recognized the application of the Act of 1904 throughout the country. Only Part 'B' States had not fallen within its scope and it is for this purpose that section 2 of this Bill has been provided so that the important sites of Part 'B' States could also come under the direct supervision of the Central Government. For this purpose it was thought necessary that a list of all those sites should be given in the Bill; accordingly, a list of those sites has been given in the Second Schedule.

I think the nature of the Bill is such that it need not be debated. It is a clear case and we are only required to fulfil certain procedural formalities. I have every hope that this measure would be passed in the shortest possible time.

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

"That the Bill to declare certain ancient and historical monuments and archaeological sites and remains in Part A States and Part B States to be of national importance and to provide for certain matters connected therewith, be taken into consideration."

**Thakur Lal Singh (Bhopal):** What about Part C States?

مولانا آزاد : دسے، استیٹس کی جگہوں کے لئے کسی کارروائی کرنے کی ضرورت نہ تھی کیونکہ کانستٹی ٹیوشن نے سنہ ۱۹۰۴ء ایکٹ کا نفاذ دے ہی یہ پارٹ کو چھوڑ کر باقی تمام ہندوستان میں کر دیا ہے ہم پارٹ دے سی، کی جگہوں کو سنہ ۱۹۰۴ء ایکٹ کی رو سے اپنی نگرانی میں لے سکتے ہیں اور لے چکے ہیں۔

[Maulana Azad: There was no need to pass legislation with regard to the historical sites in Part 'C' States. According to the provisions of our Constitution the Act of 1904 has been

made applicable throughout India excepting Part 'B' States. We can take over the ancient sites of Part 'C' States under our supervision under the Act of 1904; and we have already taken them over.]

**श्री सिधवा :** जनाब डिप्टी स्पीकर साहब, जनाब वजीर साहब ने जो बिल पेश किया है वह बिल्कुल सही है। जैसा उन्होंने बताया मैं समझना हूँ कि इस बिल को हमें ज्यादा तकरीर के बिना ही पास करना चाहिये। लेकिन मैं कुछ थोड़ी बात इस बिल के मुनालिकक इनफार्मेशन (information) के लिये कहना चाहता हूँ। बात यह है कि पार्ट ए के अन्दर जो हिस्टारिकल मान्यूमेंट्स (historical monuments) हैं और जो नेशनल इम्पार्टेंस (national importance) की जगह हैं वह नोटीफिकेशन (notification) के जरिये से ली गईं और यहां इस बिल के अन्दर शिड्यूल में सब चीजें बतायी गईं हैं, इस के क्या माने हैं मैं समझना चाहता हूँ। कुतुब मीनार और ताज महल जब नोटीफिकेशन के जरिये से ली गयी हैं तो . . . . .

مولانا آزاد : ٹھیک ہے - وہ

نوٹیفیکیشن کے ذریعہ سے لے لی جا سکتے ہیں - لیکن چونکہ کانسٹی ٹیوشن کی دفعہ ۶۷ میں پارت دے بی: ریاستوں کو مستثنیٰ کر دیا تھا اس لئے اس کے لئے بل پیش کرنے کی ضرورت تھی - پارت دے بی: کا سوال پیدا ہی نہیں ہوتا -

**श्री सिधवा :** तो ठीक है, मुझे इस बात का खुलासा मालूम हो गया। लेकिन जब मैं इस बिल के ऊपर बोल रहा हूँ तो मैं जनाब वजीर साहब का ध्यान दिलाना चाहता कि मैं ताज महल को चार महीने पहिले देखने गया था। वहां मैं ने देखा, कि वह जगह बहुत खराब हालत में

रखी गई है। वह दुनिया की एक मशहूर चीज है। लोग हिन्दुस्तान से और बाहर के मुल्कों से उसे देखने को आते हैं। वहां कुछ पैसे की कमी से जो बाग और बागीचा है वह बहुत ही खराब हालत में रखे गये हैं।

مولانا آزاد : یہ مائل نئی خبر ہے جو میرے آنریبل دوست صاحب دے رہے ہیں - میرے علم میں کوئی اس طرح کی شکایت نہیں آئی -

**श्री सिधवा :** तो मैं आप से कहता हूँ कि आप दरियाफ्त करें- और इस के लिये पैसे की कोई कमी नहीं होनी चाहिये।

लार्ड कर्जन ने जो हिन्दुस्तान के लिये यह ऐक्ट बनाया और जो उन्होंने पुरानी और ऐतिहासिक चीजों के लिये काम किया वह बहुत अच्छा काम किया है और इस काम को हमें जारी रखने के लिये पैसे की कोई कमी नहीं होने देना चाहिये। वहां में गया तो कहा कि पानी नहीं था और ज्यादा पैसा चाहिये। मैं ने दरियाफ्त किया कि ऐसी हालत रखने की क्या वजह है तो कहा कि पैसा काफी नहीं है। ताजमहल तो दुनिया की एक मशहूर चीज है, वह तो अच्छी चीज है। लेकिन दाखिल होने के साथ जो वहां बगीचा है वह ठीक नहीं लगता। इस लिये मैं वजीर साहब से कहता हूँ कि अगर वह पैसे के लिये कमी नहीं करें और मैं यकीन दिलाता हूँ कि अगर वह पैसे के लिये पालियामेंट के पास आवेंगे तो उन को जरूर मिल जायगा। नेशनल इम्पार्टेंस और हिस्टारिकल और एनशियंट (ancient) जो चीजें हैं उन को कायम रखने के लिये पैसे की कोई रुकावट नहीं होनी चाहिये। अगर लार्ड कर्जन ने यह काम नहीं किया होता तो मालूम नहीं

[श्री सिधवा]

कि हमारी यह चीजें आज किस हालत में होतीं। तो उन्होंने बहुत अच्छा काम किया और हमें उस को जारी रखना चाहिये। इतना ही कह कर मैं खुशी से इस बिल की तारीफ करता हूँ।

(English translation of the above speech)

**Shri Sidhva (Madhya Pradesh):** The Bill introduced by the hon. Minister is a measure of the right type. As desired by him, I think, we should get it passed without any lengthy debates being made. But I would like to say a word about it as a matter of information. The point is that all the historical monuments and sites of national importance existing in Part 'A' States were taken over by means of a notification while in this Bill these things have been mentioned in a Schedule. I want to understand it what is meant by all this. When the Kutab Minar and the Taj Mahal were taken over by means of a notification.....

**Maulana Azad:** Quite so. They can be taken over by means of a notification. But as Article 67 of the Constitution excludes Part 'B' States, so it was necessary to introduce a Bill about them. The question of Part 'C' States does not arise at all.

**Shri Sidhva:** Well Sir, I have followed the point now. But while speaking on this Bill, I would like to draw the attention of the hon. Minister towards an important fact. Four months ago when I visited the Taj Mahal I found that it was kept in a very bad condition. It is a world famous place. People from all parts of India and world come to see it. The gardens there have been kept in a very bad condition as a result of lack of funds.

**Maulana Azad:** What my hon. friend is telling is quite a news to me. So far as I know, no such complaint has been received.

**Shri Sidhva:** I request you to enquire about it. There should be no lack of funds for its up-keep.

So far as the up-keep of the ancient and historical sites is concerned Lord Curzon certainly did good work by passing this act; and we should not let this work suffer for lack of funds. I went there and was informed that there was scarcity of water and more money was required for it. I

enquired about the causes and was informed that they did not have enough money. The Taj Mahal is a world famous building. But the garden which is adjacent to its entrance does not look nice. Therefore, I request the hon. Minister not to be too frugal about it. I would like to assure him that if he asks this House to grant some money for this purpose, he will definitely receive a good response. There should be no financial stringency with regard to the preservation of the historical and ancient sites and monuments which are of national importance. Had Lord Curzon not passed this Act, we don't know what would have been the fate of these monuments. So he did a very good thing and we should carry it forward.

Sir, with these words, I heartily support this Bill.

شروی حسین امام : میں بھی اس بل کے متعلق کچھ الفاظ آپ کی خدمت میں عرض کرنا چاہتا ہوں اور وہ یہ کہ ہمارا جو قانون سنہ ۱۹۰۳ء کا تھا وہ اس حصہ ہندوستان پر لگو تھا جس کو برٹش انڈیا کہتے تھے۔

بے وقتی کاروں کی (۱۰۰ کے ساتھ) سوناई نہیں دے رہا ہے۔

شروی حسین امام : میں یہ عرض کر رہا ہوں کہ وہ قانون جو سنہ ۱۹۰۳ء میں پاس ہوا تھا وہ صرف اس حصہ پر لگو ہوتا تھا جس کو برٹش انڈیا کہتے تھے۔ اور جس کو انڈین انڈیا کہتے تھے یعنی ہندوستانی ریاستوں۔ ان پر وہ قانون لگو نہیں تھا۔ اب میں یہ دریافت کرنا چاہتا ہوں کہ کس اہمیت کے ذریعے سے اور کس قانون کے ذریعے سے اس کو اب ان علاقوں پر لگو کیا جا چکا ہے جو پارٹ "سی" ہیں۔

where the delegated authority comes in.

مولانا آزاد : اب آپ اس بل کو

پارٹ دہبی ۴۴ اسٹیٹس پر لاگو کریں گے۔

شری حسین امام : جی نہیں۔

میں پارٹ دہبی ۴۴ کے متعلق پوچھ رہا

ہوں کہ جیسے ہماچل پردیش اور

وندھیا پردیش میں ، بھوپال ہے ،

کچھ ہے ، یہ سب کے سب ریاستیں

تھیں دواصل پارٹ ”بی“ کے تکرے تھے

مگر آج وہ پارٹ دہبی ۴۴ اسٹیٹس ہو

گئے ہیں۔ میرا اپنا ذاتی خیال یہ ہے

کہ سنہ ۱۹۰۴ء کا قانون ان علاقوں پر

لاگو نہیں تھا اور نہ اب لاگو ہے۔

مولانا آزاد : اب ہے۔

شری حسین امام : کسی طرح سے؟

مولانا آزاد : اس لئے کہ یہ تمام

مقامات گورنمنٹ آف انڈیا کے ہاتھ

میں ہیں ، علاوہ برہیں کانسی ٹیوشن

پارٹ دہبی ۴۴ ریاستوں کو چھوڑ کر اور تمام

جگہوں پر ایکٹ سنہ ۱۹۰۴ء کو نافذ

کر چکا ہے۔ پس پارٹ ”سی“ کے لئے

کسی بل کی ضرورت نہیں رہی۔

**Mr. Deputy-Speaker:** They are directly managed by the Government of India.

**Shri Hussain Imam:** The differentiation between monuments of national importance and others must be declared by law.

**Mr. Deputy-Speaker:** All monuments in Part C States are directly under the Central Government.

**Shri Hussain Imam:** The difficulty is that they may be relegated as of provincial importance and left to be administered by the Part C State Governments. I want that the important one should also be administered by the Government of India—acting as the Government of India and not acting as Part C States

یہ جو میں عرض کر رہا ہوں

۱۹۰۴ء کے ایکٹ کے متعلق ہے۔

پ്രधानमंत्री तथा वैदेशिक कार्यमंत्री :

(श्री जवाहर लाल नेहरू): मैं आप की तबज्जह

दिला दू कि हमारे मुस्लिफ्र एकट्स

एडेप्ट (adapt) हुए हैं। उन में यह

सन् १९०४ का एकट भी एडेप्ट हो चुका

है और अब इस वक्त, एडेप्टेशन के बाद

it extends to the whole of India except to Part B States.”

شری حسین امام : اس کو میں

پوچھ رہا تھا۔ تو اب اس کے معنی یہ

ہو گئے کہ قانون تو لاگو ہو گیا۔ لیکن

یہ تفریق ہے کہ یہ نیشنل امپورٹنس

کی چیزیں ہیں اور یہ پراونشیل

امپورٹنس کی۔ یہ تفریق باقی رہا

جاتی ہے کہ ان چیزوں کو گورنمنٹ

آف انڈیا ڈائریکٹلی مینج

(directly manage) کرے اور ان

کو نہیں۔ مثال کے لئے لیجنے لال

قلعہ دہلی کا۔ یہ نیشنل امپورٹنس

کی چیز ہے جس کو دہلی

ایڈمنسٹریشن نہیں بلکہ سنٹرل

گورنمنٹ کر مینج کرنا چاہئے۔

مولانا آزاد : یہ تو سنہ ۱۹۰۴ء کے

ایکٹ کے آثار قدیمہ میں کب کا آچکا

ہے۔

شری حسین امام : اسی لئے تو

عرض کر رہا ہوں۔

مولانا آزاد : جب آپ اس بل کے

پہلے حصہ میں یہ کہتے ہیں کہ سنہ

[مولانا آزاد].

۱۹۰۳ء کے ایکٹ کا نفاذ جن جگہوں پر  
ہوا تھا، وہ سب نیشنل امپورٹنس  
کی ہیں تب وہ تمام مختلف چیزیں  
جو آج تک سنٹرل گورنمنٹ کے ہاتھ  
میں تھیں نیشنل امپورٹنس کی ہو  
جائیں گی۔ اسی طرح لال قلعہ بھی ہو  
جائے گا۔

کوئٹن اے۔ پی۔ سی: لیکن یہ ہم  
نہیں مالاوم ہوا کہ ہمارے پارٹ 'سی' سٹیٹس  
کی یہ جگہیں اب نیشنل امپورٹنس کی  
مانی گئی ہیں اور یہ نہیں مانی گئی  
اس کے لیے کوئی نوٹیفیکیشن ہوگا یا  
گورنمنٹ کے ہاتھ سے نکلے گا؟

مولانا آزاد: ہاں۔ یہ بل صرف  
پارٹ 'سی' کے لیے نہیں کیا گیا ہے۔  
بہائی جگہوں کے لیے تو جو معمولی  
طریقہ کارروائی کا ہے وہ کیا جائے گا۔

ٹاکر لال سی: اس میں یہ لکھا  
ہے:

All ancient and historical monu-  
ments in Part "A States and Part B  
States."

تو 'اے' سٹیٹس should be removed  
اگر 'اے' کے لیے نہیں ہے، صرف 'بی' کے لیے  
ہے تو یہ 'اے' کو نکال دینا چاہیے۔

مولانا آزاد: جب آپ کہتے ہیں  
کہ سنہ ۱۹۰۳ء کے ایکٹ کی رو سے  
جتنی جگہیں تھیں، وہ نیشنل  
امپورٹنس کی ہیں تو پارٹ 'سی' کے  
کی تمام جگہیں انہیں اب وہ جگہیں  
وہ جاتی ہیں جو کل تک انڈین  
اسٹیٹس کی سمجھی جاتی تھیں۔  
اب وہ پوری ہیں پارٹ "بی" میں۔

اس لئے پارٹ "بی" کے لیے ہی یہ بل  
فیصلہ کر دیتا ہے۔

شری حسین امام: جناب ڈپٹی  
اسپیکر صاحب۔ میں یہ عرض کر رہا  
تھا کہ۔۔۔۔۔

**Mr. Deputy-Speaker:** All archaeo-  
logical sites and remains other than  
those declared by Parliament by law  
to be of national importance—that  
entry is not in the State List but in  
the Concurrent List, as No. 40. Those  
that are declared by Parliament by  
law to be of national importance will  
be taken away from the Concurrent  
List and be exclusively in the hands  
of the Centre. So far as Part C States  
are concerned, there is no difference.  
All archaeological sites and remains  
will be in the hands of the Centre, and  
the Parliament.

**Shri Dwivedi:** May I know whether  
all the monuments in Part C States  
will be of national importance? There  
may be certain monuments which are  
of a greater importance and there may  
be other's which cannot be considered  
to be on the same level of importance.

**Mr. Deputy-Speaker:** The Central  
Government is in charge of both.  
There is no need to make a difference  
between those that are of national  
importance and those that are not. It  
is only when the States come in, and  
the responsibility is thrown on the  
States also to preserve them, that the  
question of national importance  
comes, and it becomes the responsi-  
bility of the Centre exclusively.

**Shri Dwivedi:** The point is that  
there are certain monuments which  
need not be protected while there are  
other monuments, of national import-  
ance, which must be protected.

مولانا آزاد: کوئی تاریخی جگہ بغیر  
حفاظت کے نہیں رہیگی بھٹ صرف  
اس میں ہے کہ ان کی حفاظت سنٹر  
کے یا پرائنس کے۔ لیکن حفاظت  
تو سارے مانیومنٹس کی کرنی چاہیے۔  
شری حسین امام: میں یہ عرض  
کر رہا تھا کہ اس ڈیکلاریشن



(declaration) سے ہم صرف یہ چاہ رہے تھے کہ پارت سے اسٹیٹس میں جو چیزیں پوتی ہیں ان کو دو حصوں میں کر دیا جائے۔ ایک تو وہ جو بہت ضروری ہوں ان کے نیشنل اسمارٹمنٹس کا آپ یا نو نوٹیفیکیشن سے یا اور کسی ذریعہ سے کر دیا جائے اور باقی کو چھوڑ دیا جائے۔ آرکائیوز (Archives) کا ایڈمنسٹریشن (administration) پراونشیل گورنمنٹ کے ذریعہ بھی ہوتا ہے اور سینٹرل بھی ہوتا ہے۔ سینٹرل ان کو کنٹرول کرتا ہے جو زیادہ اسمارٹمنٹس کے ہوتے ہیں اور میں چاہتا ہوں کہ ایسی چیزیں سینٹرل کے پاس رہیں کہونکہ ڈائیکٹن اتھارٹی (delegated authority) چیف کمشنرز یا دوسری اتھارٹیز جو صوبوں میں ہوتی ہیں وہ کرتی ہیں اس میں ایک دوسری خرابی یہ پڑ جانی ہے کہ یہ جتنے صوبے ہیں پارت سے اسٹیٹس کے وہ سب کے سب ہوم منسٹری (Ministry of Home Affairs) کے ماتحت ایڈمنسٹریٹری آجاتے ہیں اس لئے بھی ضروری ہے کہ نیشنل اسمارٹمنٹس کے جو مانیومنٹس ہیں ان کو الگ کر کے دو حصوں میں تقسیم کر دیا جائے اور ان کو ڈائریکٹری سینٹرل ایڈمنسٹر کرے۔

دوسری چیز جو میں عرض کر رہا تھا وہ یہ ہے کہ سہری مسجد میں نہیں  
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آتا کہ بہت سی چیزیں کہیں چھوڑ دی گئی ہیں اور ان کو کہوں شامل نہیں کیا گیا ہے۔ میں جناب کی توجہ اس طرف مبذول کرانا چاہتا ہوں کہ مسطور میں جہاں آپ نے تھو سلطان کے پبلکس کو نیشنل اسمارٹمنٹس میں دے دیا ہے۔ مگر ان کے مزار کو نیشنل اسمارٹمنٹس میں نہیں دیا ہے۔ یہ کیسی بات ہے کہ آپ ان کے پبلکس کو تو نیشنل اسمارٹمنٹس میں دیتے ہیں لیکن ان کے مزار کو دستگ پبلکس (resting place) کو۔ اس میں نہیں شامل کرتے۔ اور مجھے یہ دیکھ کر بڑا اچھا ہوتا ہے کہ ایسا آخر کہوں ہوتا ہے۔ اور اس لئے میں چاہتا تھا کہ میں جناب کی توجہ اس طرف مبذول کر لوں۔

تیسری گزارش یہ تھی کہ اس بات کا افسوس ہے کہ اس وقت جو چیزیں اسپیسیفائی (specify) کی گئی ہیں وہ بڑی موہم سی ہیں جیسے صفحہ 11 پر اورنگ آباد جو اینشیلٹ مانیومنٹ میں لیا گیا ہے اس کا نمبر نہیں دیا گیا ہے۔

مولانا آزاد: وہ اتنا مشہور ہے کہ نمبر کی کوئی ضرورت نہیں ہے۔

شری حسین امام: ایسی چیزیں جن کے بابت ابھی کوئی کام نہیں کیا گیا ہے بلکہ وہ سائٹس پربوبیل سائٹس (probable sites) سمجھی جاتی

[شہری حسین امام]

ہیں ان کے متعلق تو کچھ تقریجی ہونا چاہیے۔

مولانا آزاد : میں اپنے دوست کو یہ بتانا چاہوں گا کہ اس کی جگہ یہ بل نہیں ہے جو دیپارٹمنٹل لسٹ بل کے لیے اس میں ان سائٹس کی بابت تمام ضروری باتیں لکھی جائیں گی۔

شہری حسین امام : بہت سی چیزیں ایسی بھی آئی ہیں جن کے متعلق (Pre-historic sites) کا تعلق ہونا ہے اور ان کے بارے میں کچھ تقریجی ہونا ضروری ہونا ہے۔

**Mr. Deputy-Speaker:** The Archaeological Department has got a list of them. And they have read the history. They have said "if this mound is dug, you can get some information". Therefore, mounds are described in general, and they will be taken up for work. These mounds are of such great importance that the Centre must come to help. They cannot be described in a better manner than how they have been described—that is, "ancient mound at Kondapur" etc. They have got a list of the mounds.

**Shri Hussain Imam:** What I want to draw attention to is that it must be specified as to how many mounds are going to be preserved there or hundred mounds in that area?

**Mr. Deputy-Speaker:** They have only said "ancient mound" at such and such place.

**Shri Hussain Imam:** They are used in singular.

**Mr. Deputy-Speaker:** It is all a single mound.

شہری حسین امام : میرا کہنا یہ ہے کہ کل حیدرآباد کے متعلق جو لسٹ دی گئی ہے اس میں یہی طریقہ ان مائونڈس کے بارے میں استعمال نہیں کیا گیا ہے۔

مولانا آزاد : اس لئے کہ سائٹ ایک ہے اور ہو سکتا ہے کہ سائٹ تو ایک ہو اور وہاں کئی چیزیں ہوں۔

شہری حسین امام : میں عرض کروں کہ وہ کافی ہو سکتے ہیں۔ مثلاً جہاں جہاں جھوٹی عمارتیں ہوں اور وہ پرانی عمارت بن کر گئی ہوں اور ان کا ایک مائونڈ (mound) بن گیا ہے اور ایک ایک جگہ دس دس مائونڈ ہیں۔

**Mr. Deputy-Speaker:** Only certain mounds have been chosen. There is no good running after small mounds.

**Shri Hussain Imam:** Either they should be used as plural or they should be described. Otherwise it is a cursory legislation.

شو ہڈا : اس سلسلے میں میں یہ بتانا چاہتا ہوں کہ اس لسٹ میں جو نام لکھے گئے ہیں وہ دراصل بڑے شہر اور مضافاتی علاقوں کے ہیں اور کسی وقت میں وہ راجधानی رہے ہیں اور مائونڈ یا مائونڈس کہنے سے کوئی خاص فرق نہیں پڑتا، कारण केवल नाम लेने से है वह सब मऊण्डस उन में आ जायेंगे। पैठन कोई छोटा सा टीला नहीं बल्कि पहले जमाने में पैठन एक हिस्टोरिकल शहर रहा है और जब भी एक बड़ा तीर्थ-स्थान माना जाता है। अतः केवल नामों का जिक्र काफी है।

**Shri Hussain Imam:** Either you should put the plural or you should describe it properly... My own objection is that this will be hasty legislation if it is passed without filling in all the lacunae and changes required.

مولانا آزاد : آپ چاہتے تھے کہ اس بل میں ہر جگہ کی پروری ہستی پیش کی جائے۔

شری حسین امام : میں چاہتا تھا کہ کم از کم ان کے بارے میں کچھ تو ذکر ہوتا۔

مولانا آزاد : یہ کام تو تیار شدت کے افسیوس کا تھا انہوں نے غور و فکر کر کے کیا ہے۔

(English translation of the above speech)

**Shri Hussain Imam (Bihar)** : I too want to submit a few words with regard to this Bill. The Act of 1904 was applicable only to that part of India which was known as British India.

**The Deputy Minister of External Affairs (Dr. Keskar)** : We are unable to hear him.

**Shri Hussain Imam** : I was saying that the Act of 1904 was applicable to that part of India alone which was known as the British India. It was not applicable to the Native India i.e. the Indian States. Now I would like to know the amendment or the law by which this act has been made applicable to those areas as well, which are known as Part 'C' States.

**Maulana Azad** : Now you would make this Bill applicable to Part 'B' States also.

**Shri Hussain Imam** : No Sir, I am asking about Part 'C' States. For instance, there are States like Himachal Pradesh, Vindhya Pradesh, Bhopal and Kutch. Formerly all of them were Indian States, but now they all have become Part 'C' States. My personal impression is that the Act of 1904 was never applicable to these areas; nor is it so even today.

**Maulana Azad** : Now it is applicable.

**Shri Hussain Imam** : How?

**Maulana Azad** : Because all these places are directly under the Government of India. Besides this, the Constitution has made the Act of 1904 applicable throughout India excepting Part 'B' States. So there is no need for introducing any separate Bill with regard to Part 'C' States.

**Mr. Deputy-Speaker** : They are directly managed by the Government of India.

**Shri Hussain Imam** : The differentiation between monuments of national importance and other must be declared by law.

**Mr. Deputy-Speaker** : All monuments in Part 'C' States are directly under the Central Government.

**Shri Hussain Imam** : The difficulty is that they may be relegated as of provincial importance and left to be administered by the Part 'C' State Governments. I want that the important one should also be administered by the Government of India—acting as the Government of India and not acting as Part 'C' States where the delegated authority comes in. What I am submitting is about the Act of 1904.

**The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru)** : May I draw your attention to the fact that our various Acts have been adapted, and this Act of 1904 is one of the Acts that have been adapted and now after adaptation it extends to the whole of India except to Part 'B' States.

**Shri Hussain Imam** : I was asking about this very thing. Now it means that the Act has been enforced, but the only difference is that some particular things are of national importance and the others are of provincial importance. The only difference between them is whether the Government of India should directly manage them or not. For instance take the case of the Red Fort of Delhi. This is a monument of national importance and it should be managed by the Central Government and not by the Delhi administration.

**Maulana Azad** : This came under the Act of 1904 as an archaeological site long ago.

**Shri Hussain Imam** : That is why I am submitting.....

**Maulana Azad** : When in the first part of the Bill you say that all the monuments and sites covered by the Act of 1904, are sites of national importance, the various monuments and remains which have been under the charge of the Central Government will naturally become things of national importance. In this manner, the Red Fort of Delhi too will come under that category.

**Capt. A. P. Singh (Vindhya Pradesh)** : But we do not know which sites in our Part 'C' States have been recognised as sites of national importance and which not. Would any notification be issued in this connection or would it be published in the Government Gazette?

**Maulana Azad** : Yes, this Bill has been introduced only for Part 'B' States. As for other sites the normal procedure would be adhered to.

**Thakur Lal Singh:** It says, "All ancient and historical monuments in Part A States and Part B States". The words "Part A States" should be removed. If it is not meant for Part A States and is applicable to Part B States only, the words "Part A States" should be deleted.

**Maulana Azad:** When you say that all the sites covered by the Act of 1904, will be considered as sites of national importance, it is obvious that the sites in the Part A States come under its purview. The sites then remain are those which were supposed to belong to the Indian States, as known till recently. Now they form Part B States and this Bill decides so far as the Part B States are concerned.

**Shri Hussain Imam:** Sir, I was submitting that.....

**Mr. Deputy-Speaker:** All Archaeological sites and remains other than those declared by Parliament by law to be of national importance—that entry is not in the State List but in the Concurrent List, as No. 40. Those that are declared by Parliament by law to be of national importance will be taken away from the Concurrent List and be exclusively in the hands of the Centre. So far as Part C States are concerned, there is no difference. All archaeological sites and remains will be in the hands of the Centre, and the Parliament.

**Shri Dwivedi (Vindhya Pradesh):** May I know whether all the monuments in Part C States will be of national importance? There may be certain monuments which are of a greater importance and there may be others which cannot be considered to be on the same level of importance.

**Mr. Deputy-Speaker:** The Central Government is in charge of both. There is no need to make a difference between those that are of national importance and those that are not. It is only when the States come in, and the responsibility is thrown on the States also to preserve them, that the question of national importance comes, and it becomes the responsibility of the Centre exclusively.

**Shri Dwivedi:** The point is that there are certain monuments which need not be protected while there are other monuments, of national importance, which must be protected.

**Maulana Azad:** No historical site will remain without protection. The

only question is whether they should be looked after by the Centre or by the Province. All the monuments, however, are to be protected.

**Shri Hussain Imam:** My submission was that by such a declaration we only want that the monuments situated in Part 'C' States should also be divided into two categories. Those sites and monuments which are very important should be declared as being of national importance either by issuing a notification or in some other way, and the rest should be left out. The administration of archives is being carried on by the Central as well as the Provincial Governments. The Central Government controls those archives which are of greater importance and I want that such monuments should remain with the Central Government, because there are certain drawbacks in delegated authority such as that of the Chief Commissioner or of other authorities which function in many other provinces. The second drawback with respect to this matter is that administrative'ly all the Part 'C' States come under the Ministry of Home Affairs. For this reason as well it is necessary that these monuments of national importance be divided into two categories and their administration taken over directly by the Centre.

The second point which I am submitting is that I am unable to understand as to why many of the things have been left over and not included in the list. Sir, I may draw your attention to the fact that as regards Mysore while Tippu Sultan's palace has been declared as a monument of national importance, his tomb has not been declared as such. What a strange thing it is that while you recognize his palace as a monument of national importance, his tomb, his resting place, is left out. Sir, I am much surprised at this. Why this distinction? I would like to draw your attention to it.

My third submission is that I am sorry to note that the monuments are very vaguely specified, as, for instance, on page 11 of the list, the ancient monuments of Aurangabad have not been numbered.

**Maulana Azad:** They are so famous that they need not be numbered.

**Shri Hussain Imam:** As for those sites on which no work has been started as yet and which are considered as probable sites, there ought to be some literature.

**Maulana Azad:** I would like to inform my hon. friend that this Bill is not the proper place for such a thing. All necessary information regarding these sites would be given in the departmental list which would be published.

**Shri Hussain Imam:** Many such things are found which have their relationship with the pre-historic age. It is necessary that there should be some literature about them.

**Mr. Deputy-Speaker:** The Archaeological Department has got a list of them. And they have read the history. They have said "if this mound is dug, you can get some information". Therefore mounds are described in general and they will be taken up for work. These mounds are of such great importance that the Centre must come to help. They cannot be described in a better manner than how they have been described—that is, "ancient mound at Kondapur" etc. They have got a list of the mounds.

**Shri Hussain Imam:** What I want to draw attention to is that it must be specified as to how many mounds there are. Is it only one mound that is going to be preserved there or hundred mounds in that area?

**Mr. Deputy-Speaker:** They have only said "ancient mound" at such and such place.

**Shri Hussain Imam:** They are used in singular.

**Mr. Deputy-Speaker:** It is all a single mound.

**Shri Hussain Imam:** My submission is that the list regarding Hyderabad, which was supplied yesterday does not describe these mounds properly.

**Maulana Azad:** There is only one site, and it is possible that there may be many other things though the site may only be one.

**Shri Hussain Imam:** May I submit that there can be many such mounds. For instance a number of small buildings might have collapsed, and transformed into a number of mounds. In this way there may be as many as ten mounds at a single site.

**Mr. Deputy Speaker:** Only certain mounds have been chosen. There is no good running after small mounds.

**Shri Hussain Imam:** Either they should be used as plural or they should be described. Otherwise it is a cursory legislation.

**Shri Heda (Hyderabad):** In this connection I would like to submit that this list includes the names of those monuments and sites only which in fact were big cities and famous places and might have been state capitals in ancient times. It does not make any difference to call them by the name of mound or mounds. All these details will naturally be covered by it. Paithan is not a small mound; in fact in ancient times it has been a great historical city and even today it is considered an important place of pilgrimage. Therefore, it is sufficient to give the names only.

**Shri Hussain Imam:** Either you should put the plural or you should describe it properly. My own objection is that this will be hasty legislation if it is passed without filling in all the lacunæ and changes required.

**Maulana Azad:** You wanted that the history of every site should have been given in this Bill.

**Shri Hussain Imam:** I wanted that at least some mention should have been made about them.

**Maulana Azad:** This was the job of the experts of the Department. They have done it after due consideration.

**Mr. Deputy-Speaker:** Is it necessary to pursue this matter? Cannot we pass this Bill now?

**Shri Hussain Imam:** My only point is that the singular should be changed into plural.

**Shri Bhat rose—**

**Mr. Deputy-Speaker:** The House will now stand adjourn till 10-45 A.M. tomorrow.

*The House then adjourned till a Quarter to Eleven of the Clock on Thursday, the 9th August, 1951.*