

FORWARD CONTRACTS (REGULATION) BILL—Contd.

Mr. Speaker: Mr. Rohini Kumar Chaudhuri. He is not in the House. Mr. Tripathi.

Shri Punnoose (Alleppey): May I point out, Sir, that on the previous day Mr. Thomas was actually called on to speak. But Mr. Rohini Kumar Chaudhuri said that he might be given two or three minutes. Therefore, he was allowed to speak and it was promised that Mr. Thomas would be called next.

Mr. Speaker: I was unaware of that promise. There was a note that Mr. Rohini Kumar Chaudhuri's speech was unfinished and that is why I called his name. And not knowing the undertaking or promise I naturally called the other hon. Member to speak. I will call Mr. Thomas next.

Shri K. P. Tripathi (Darrang): The debate has resolved itself mostly into a discussion of clause 18 of the Bill, with references here and there to the functions of the advisory committee and the Commission. I feel it is necessary for us to bear in mind the workers' and producers' point of view with regard to these forward contracts. I feel that this point of view has not been sufficiently kept in mind.

So far as the Government has decided that forward contracts should be regulated, it is a progressive measure. I do not agree with the representatives of the Communist Party when they say that this measure should be scrapped. They stand for control, and therefore whenever there is a measure for controlling any activity of society which sometimes is undesirable, I think it is a progressive measure. But the point is how far it is progressive. The hon. Minister has said that he has not much experience and that the Government have no machinery whereby it could be controlled all over India. I understand that and therefore I realize that the beginning shall have to be made somewhere and the Government have started this progressive measure. But I feel that the halting attempt which the Government is making will not carry us very far. The reason is this. It will be remembered that during the food debate the hon. the Finance Minister stated that the question of fixing prices of agricultural commodities, namely of food, was engaging the attention of Government and that floor as well as ceiling prices had to be fixed. Therefore, I feel that the Government have come to this position, namely, that the floor and ceiling prices have to be fixed so that the producers may be protected. But I

feel that this system by which the prices are fixed by forward contracts does not protect the producer.

I think a more civilized and a more progressive way of fixing the prices and protecting the producer is by calculating the costs of production. The other day, while we were discussing the Sugar Duty Bill, it was found that the cost of production was not properly calculated and the result was the producer was not sufficiently protected. Therefore, you will see that whenever the trading interests are allowed to fix the prices by jockeying, the producer can never be protected: it will be the market which will determine the rule, and when they are over-trading, the producer can never be protected. At present the functions of these middlemen are two: one is distribution, the other is fixation of prices. I feel that in a civilized society the fixation of prices should not be left to these trading interests at all. It should be left to the Government to fix the prices by calculating the costs of production. I, therefore, feel that the Government should come forward to calculate the costs of production and fix the prices on that basis. Then only will the workers and the producers be protected.

So far as the remarks of Mr. C. C. Shah in the minute of dissent are concerned, I fully agree with the reasons given there and I feel that he has given a very progressive idea with regard to this phenomenon of forward contracts. And it should engage the attention of all thinking persons. Indeed he has very clearly stated that "the consumer is at the mercy of the speculator. It is a large and growing menace which, if not checked, is likely to affect seriously the economic life of the country". There he said that it is a growing menace. How is it a growing menace? If this habit of forward contracts and speculation were confined only to big cities like Calcutta and Bombay it is something but I want to point out that this menace is not confined there. It is spreading like a wild fire, spreading into the countryside, into different commodities which were not formerly speculated upon. Even in the villages speculation has spread. The result has been that a lot of capital which is absolutely necessary for the development of the country is being locked up for this purpose of mere speculation. Speculation is not a productive activity. In a planned economy we must have productive activity and the more and more capital of the country is concerned for the purpose of investment in production, the better for us. But what is happening here? Gradually the amount

of money which is required for mere trading is increasing not merely for mere distribution but for speculation. If this continues I think it will be a bad day for us and the amount of money which is set up, viz., rupees two thousand crores for the purpose of development for five years will not be fully available for us. The internal capital which is available will be reduced in a great measure. Therefore, this phenomenon has to be checked and I feel that the Government which is going to make a small beginning now will come forward and take stock of the entire stock market, will see the forces at play there, and try to find out and evolve a policy. Particularly for this I would draw the attention of the Planning Commission with regard to what place they will give this forward contract in the trading life of our community. I think if it is so considered it will be for the good of India as a whole.

So far as clause 18 itself is concerned, I feel that the Government, here also, have made a right beginning. They have put in the major clause only such power as they themselves are capable of exercising. Such power as it will be too much for them to have now they are putting off in a proviso and they think that if conditions arise which make it necessary for the Government to intervene, then only they will intervene. I feel that this is a right step to take. The Government should not take powers immediately where they are not necessary but they should keep those powers in reserve. Therefore, I think you will agree with the present situation.

[MR. DEPUTY-SPEAKER in the Chair]

With regard to the advisory committee and Commission, I feel that the Commission is a body which should be entrusted with the control of the forward markets and the advisory body is a body which should be there for advising the Government with regard to how things should be done. The functions of these two bodies are completely separate and I think you will agree with the Government providing two bodies, one for advising the Government and the other for controlling the market itself. When a body like the Commission is directly controlling the market it is likely to have a bias towards certain fundamental trades and therefore another advisory committee which may not be so biased will be necessary for the Government to advise.

12 Noon.

Then we have Mr. Upadhyay's suggestion made the other day that the forward contracts, as envisaged in the

Bill, are going to be controlled by the associations. Now, it is the experience of all that the associations are constituted by men who are themselves interested in speculation. Therefore, they try to derive advantage out of this association. Therefore, it is quite possible that the associations might try to convert themselves into monopolies and so full and complete powers should not be vested in them. It is for this reason that Government should start only in a particular area with a particular commodity. I feel it is also necessary that this speculation should not be allowed to extend to all commodities. It should be restricted as far as possible. Now it is extending itself to all commodities. It has not luckily extended to food crops like rice and wheat. If it was extended there it would be a curse for the country. Therefore, I feel that this attempt of the Government to control the forward markets is a right measure and a measure which every thinking man should agree with. But, it is a halting measure. It should make people realise that it is not complete. It is not such a measure that will be able to preserve the economy of the country unaffected when a crisis comes.

It has been said that this sort of forward contract trading preserves and protects the grower. Actually it does not. What happens is that the overtrading goes on and when it goes on, the prices fall down and ultimately it is the producer who has to bear the burden. In our place it happened recently. The prices of jute and mustard fell far below the production costs. There was too much of overtrading and the small traders who had invested a large amount of money lost all their money and for some time practically our market was closed for want of money even for the purposes of ordinary trading. Why did it happen? It happened because the man who has plenty of money sees ahead. He determines the policies and therefore when there is a speculative contract, there comes a time when he suddenly wins and when he wins, all the money from the market goes into his hands and nothing is left behind. The result is not merely the producer but even the small trader suffers and the whole market suffers. Therefore, I have been asking and requesting Government to consider what place this forward trading should occupy in trading in this country. I feel intensely about it. I feel that the House should realise that this sort of activity should not be allowed to continue in a planned economy. In a planned economy production must be based on calculation

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of production costs. In that way only a scientific, reasonable and civilised society can hope that its ordinary people will be protected. If we can determine the price structure of our commodities based on this sort of calculation then the happiness which you want to produce, the Welfare State which you want to create will be easier and it is for this reason that I want to draw the pointed attention of the hon. Minister and the hon. Members of this House to this aspect of the question so that we may all pool our wisdom together so that in times to come when we have better control of the market and when we have better personnel, it may be possible for us both to control the market as well as fix upon ceiling and floor in prices. In a planned economy a Government cannot but agree to this rightful method, namely there shall be floor of all commodities.

Now there is a slump in the country, there has been a slump in tea market, there has been a slump in jute market, there has been a slump in mustard, so much so that mills have been closed and labour has been thrown out. There is unemployment. Government has not been able to do anything. Why? Because Government, from the very beginning, did not anticipate this crisis and, secondly, because Government had no policy to control this crisis so that it might not come. So long as there is no planning, the market must be determined by the speculators and therefore nobody can protect the ordinary grower and labourer. But, as soon as there comes a strong Government, capable of controlling the economy of the country, taking the reins in its own hands, and not allowing the speculators to destroy our economy progressively and rigorously, I feel that there comes the time when the only suitable method is price fixation, fixation of floors and ceilings. The Planning Commission, if it is worth the name, must consider this question whether they would leave a sufficient margin for cost of production by the fixing of floors and ceilings. If floors and ceilings are fixed, and then, if this forward trading is allowed, it will swing between the floors and ceilings.....

Shri Bansal (Jhajjar-Rewari): Will that solve the crisis in the tea industry?

Shri K. P. Tripathi: With regard to the tea industry, a very relevant question has been asked. The difficulty of the tea industry is that it is a commercial crop which is meant for

export. Only 22 per cent. of the tea produced in India is consumed in India and the rest is for export. But, even in this, I have suggested and I feel that the crisis can be met by this, namely, that for internal consumption, there should be a floor. If there is a floor for internal consumption, and for internal wholesale prices, I think the tea which is sold in India will fetch a fair price. I want to inform my hon. friend that I strongly feel about this tea crisis, and I feel that there has been manipulation in the British market.

Shri Bansal: So do I.

Shri K. P. Tripathi: If there had not been any manipulation in the British market, the tea prices would not have fallen. I challenge you to give any single reason why the price of the same quality tea, namely BP and BPS should be nine annas or ten annas in India and Rs. 1-7-0 or 1-8-0 in Pakistan. Can there be a difference of fifteen annas per pound of tea of the same quality between India and Pakistan? The reason obviously is very clear. The reason is that Pakistan has granted a discount of Rs. 2-8-0 to UK for the purpose of jute and the UK have agreed to purchase their tea at a higher price. This sort of manipulation goes on. But, the Government says that they are not informed about it. I was going astray because this is, after all, an interesting matter. The whole point.....

Mr. Deputy-Speaker: Forward or astray both mean the same thing.

Shri K. P. Tripathi: The whole point that I want to emphasise is that the Government should take up this policy of fixing of floors for all commodities which are produced in this country and for those commodities which are for export, the Government should see that our people get a fair price. They should have not merely forward contract controls, but a forward policy so that the prices may not be manipulated in the markets to the detriment of the producers. We have lost nearly 18 crores in the last few weeks on account of this tea crisis. Why was it allowed? Why was it not envisaged? It was simply because the Government did not anticipate. Therefore, I request the hon. Minister and the Planning Commission with all the force at my command that they should consider and determine the economy of this country in which the agriculturists and the producers should have a floor for their produce.

Mr. Deputy-Speaker: Mr. Somani.

Shri A. M. Thomas (Ernakulam): It was stated by the Speaker, Sir,

that I would be called next. You also promised on the last occasion.....

Mr. Deputy-Speaker: Would he not like to answer Mr. Somani?

Shri G. D. Somani (Nagaur-Pali): There has already been a sufficiently long debate.....

Mr. Deputy-Speaker: This discussion has been going on for a pretty long time now. The hon. Minister wanted to speak even the other day. I propose to call him to speak at 12-40. I would request each hon. Member to confine himself to ten minutes. Enough has been said already; points may be indicated.

Shri G. D. Somani: I shall be quite brief in the few observations that I want to make on this Bill.

This system of forward trading, like any other system, has got both advantages and disadvantages. I am perfectly of the opinion that forward trading, under proper safeguards and if done on sound lines, is really beneficial and useful to the community at large and to all the interests, that is, interests of the producer, manufacturer and distributor. But at the same time, forward trading, when it is turned into over-trading or when it is recklessly done in the form of speculation, then, certainly, it is very detrimental and harmful to society. What I want to submit is that forward trading is not new to this country. It has been going on for the last several decades, if I may say so, and although it was controlled by the Bombay Act only five years ago, in some form or other, especially in the big cities like Bombay and Calcutta, forward trading has been going on for a pretty long time. Therefore, it is hardly relevant to say that we have not got proper experience of the working of forward trading and the various repercussions that forward trading may have on the economy of our country. We have got more than enough experience and certainly, in the shaping of this Bill, we can certainly fall back upon the conditions that have been brought about in the general economic conditions of the country by the operation of forward trading. I submit with all earnestness, as I have said before, that while forward trading and the legitimate activities of trade should be allowed to function, without any sort of hindrance, at the same time, it is very essential that proper checks should be kept, so that these activities may be regulated properly in the general interests of the country.

Control over forward exchanges, is also not an easy job. We see, in spite

of the Bombay Act, how common our experience has been to find deadlocks, emergencies, manipulations, bull raids, bear raids, and all sorts of emergencies, even when forward exchanges have been functioning under some sort of control. My point, therefore, is to come just now to clause 18, the controversial clause, about which I have also associated myself with the minute of dissent that was made by my hon. friend Mr. Tulsidas Kilachand. The hon. Minister, the other day, is reported to have said that, although I was not present at the meetings of the Select Committee, I allowed my name to be associated with the minute of dissent. It is true that due to certain unavoidable domestic reasons I was not able to attend the meetings of the Select Committee; but I did acquaint myself with the full trend of the discussions that took place in the meetings of the Select Committee about this clause and I studied carefully the full report of the Select Committee as also the minute of dissent added by my hon. friend Mr. Tulsidas Kilachand. I do not see how I was wrong in associating myself with what I felt was the right course to be undertaken by the Government in bringing up this Bill.

The hon. Minister himself admitted while introducing this Bill that there was a real danger of these non-transferable specific delivery contracts being abused and we also know what was recommended by the former Select Committee. Evidence was also tendered in that Committee. Although it has been said that that evidence mainly came from the Bombay centre, still, it is our common experience that whenever loopholes are there in any Act, there is always a tendency to abuse. Even under the Bombay Act, we have found that no genuine difficulty was felt by any trading class simply because these non-transferable specific delivery contracts were brought within the purview of the working of that Act. The main reason which has been given by the hon. Minister for leaving these contracts outside the scope of this Act has been his difficulty in specifying the areas where he may have to exempt from the operation of this Act for these non-transferable specific delivery contracts. I do not quite see how this difficulty could prevent the Government from following a line under which for whatever area they recognise a particular association, in the same area, they could have brought these non-transferable specific delivery contracts under the purview of this Act. What I mean to suggest is that there was no need for having a special enquiry.

[Shri G. D. Somani]

My submission is that the amount of difficulty which the hon. Minister has anticipated in specifying those areas which will have to be excluded for these contracts seems to be exaggerated. There is no reason why Government should not have followed the line of making these contracts come within the purview of the Act, and exempting those areas from which a specific demand is made, after considering such a demand.

As I said, and as the speaker preceding me pointed out, in the pre-war years speculative activities were mainly confined to big cities like Bombay and Calcutta. In the war and post-war years, speculative activity has spread to various corners of the country, and when we are legislating on an all-India basis, we should take the precaution of not leaving any such loophole which will again lead to abuses and defeat the very purpose which we have in view, viz., regulating forward contracts in all shapes and forms. As the previous Select Committee said, these non-transferable specific delivery contracts should be brought under the purview of this Act, and if any genuine difficulty is felt anywhere, then that could certainly be examined by the Government, and a specific exemption might be issued for that area. Otherwise, it will lead to all sorts of abuses and conditions which might easily embarrass the Government at a later stage.

We were told previously that it was in Bombay alone where this control was exercised on these specific contracts, but I find that there were some questions raised in Parliament even in 1950—on Wednesday the 8th March, 1950—and from the replies given by the then Commerce Minister, Shri Neogi, it is clear that Government's attention had been drawn to the speculative activities being carried on in Bengal, in Madras and so many other places. Shri Neogi himself had mentioned that in spite of the restrictions put by the Government, the sort of contracts that were allowed in so many other places led to all sorts of abuses and speculative activities. Even at this stage, I would appeal to the hon. Minister to give us an assurance at least to the effect that whenever any specific area is recognised for an association, sub-clause (3) of clause 18 would be invoked, and that ordinarily it would be the policy of the Government to bring all these specific delivery contracts under the purview of this Bill, and that only in specific areas where there is a genuine demand for exempting these contracts from the purview of this Bill, this clause would

not be applied. Otherwise, he should make it a rule to bring all such specific contracts under the purview of this Bill.

While ordinarily it should be the policy of Government to recognise one association for each commodity, occasions may arise when in the general interest, it might be necessary to recognise more than one association for a particular area. I would therefore take this opportunity of appealing to the authority that will be set up for administering this Act, to see that the claims of the various associations which have been operating in this field should be impartially examined, and wherever necessary, it should be open to the Government to recognise more than one association.

I think it would have been better if the proposed Commission were not of a merely advisory character. After all, events in the futures market move very swiftly, and if action is to be effective, that action has got to be taken at very short notice, and under very exceptional circumstances. So, it would be better if the Commission itself were clothed with powers to take immediate action in emergencies. If the Commission is of an advisory character, it should first inform Government about the emergency, then Government take their own time, and meantime the mischief is done. What is required in forward trading is swift and effective action, and I think the machinery envisaged in the Bill of having purely an advisory Commission may not serve the purpose.

Shri A. M. Thomas: I shall be very brief in my remarks. There has been considerable discussion on the floor of this House concerning the merits and demerits of the Bill, ranging from the extreme proposition enunciated by the first speaker in the debate that forward contracts will result in nothing but evil consequences, to the other view that even options in goods have to be permitted, though in a regulated manner. This House decided that in view of the rampant evils consequent on abuse of the freedom of contract, some statutory restriction was necessary. I am at a loss to understand what exactly is the attitude of my hon. friend Shri V. P. Nayyar when he said that forward contracts would result in nothing but evil. At the same time, he was against the principle of the Bill to regulate forward contracts in general.

The main bone of contention, in all stages of this Bill either in this Parliament or in the provisional Parliament, has been the approach to be

made in the matter of non-transferable specific delivery contracts. With regard to this matter, the Bill as introduced in this House has undergone material alteration in the Select Committee. The opinion against that modification has been very well and lucidly put forward by my hon. friends Messrs. Tulsidas and Somani. I would even go a step further and characterise their minute of dissent as a beautiful essay on forward contracts in general. When we look at this question, we should not forget the basic conception that regulation of forward contracts, in any view of the matter, will be an infringement of the freedom of contract and the rights and liabilities envisaged by the Sale of Goods Act. However, this freedom has to be curtailed in the interests of the public at large. I emphasized this aspect when this Bill was being discussed before it was referred to the Select Committee, and stated before this House that as far as possible restrictions should not be put on the normal functioning of trade, and that it should interpose only if it was absolutely necessary. I would wholeheartedly support the hon. Shri Chatterjee's statement that it would be unwise and ridiculous to ban forward trading altogether. It is a necessary incident of our commercial life. We would be lagging behind many civilised countries like America and Britain if we did not recognise this normal trade.

I do not know whether my hon. friend Shri V. P. Nayar is aware of the fact that the demand to raise the ban imposed on forward contracts in Travancore-Cochin came from small mill-owners who have invested only about Rs. 5,000/- to Rs. 6,000/- in their machinery and equipment. It is a well known fact that copra for consumption by these mills, and for sale in and outside the State, is available in abundance only during the summer months. I ask, can they stock or contract for the same during that time without entering into forward contracts, and thus be assured of a certain price?

For the first time, our country is having a legislation on an all-India pattern. At one time, it was thought that section 30 of the Contract Act declaring wager contracts as void would cover truly speculative transactions bordering on gambling. There are certain judicial pronouncements holding transactions like *tejtmandi* as coming within the mischief of the section, but later rulings have struck a different note, and held them as ordinary contracts. We are aware of war-time measures, however, to prohibit or regulate forward contracts in general.

The experienced voice from my State, whatever my other hon. friends might say, is positively against the total ban on forward contracts or the inclusion of contracts of the non-transferable specific delivery type. Before the integration of the two States of Travancore and Cochin, as a wartime measure forward contracts were banned altogether in Cochin as well as in Travancore. But after a brief period, it was raised in both the States. After the integration of the two States also, forward contracts were banned for a short time. Even then from the experience gained it was found that it would not be in the interests of the public at large in my State to ban forward contract in its entirety and so the ban was lifted even after the integration.

Under the Essential Supplies (Temporary Powers) Act, forward contracts in some commodities were first banned in Part A States, and later on that ban was extended to Part B States also. On the floor of this House, I remember to have questioned the wisdom of the Government in extending this ban to Part B States including Travancore-Cochin; and the hon. Minister in his reply was pleased to remark that the question whether Travancore-Cochin should be exempted from the ban imposed under the Essential Supplies (Temporary Powers) Act, was under the consideration of the Government, and that if in the interests of the general public in that State, it was desirable to lift the ban, then that would be done. While I point out to this fact, I wish to emphasize that it had absolutely nothing to do with the representations that the hon. Minister received when he was in Travancore-Cochin. This assurance was made in last August and he visited the State towards the close of October. And I am glad to state before this House that the raising of the ban was generally welcomed from all sections of the public in Travancore-Cochin when he visited that State. But I was surprised and taken aback.....

Shri Punnoose: Is the hon. Member aware that small traders made representations to the hon. Minister both when he came there and also afterwards, that Travancore-Cochin might not be left out?

Shri A. M. Thomas: I shall just refer to the nature of that representation. I have got with me a note with regard to that fact also. That representation did not amount to a demand for placing a ban on forward contracts in general. I think my hon. friend refers to a memorandum submitted by the growers and small traders of

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Travancore-Cochin, to the hon. Minister on 15th October 1952, by Shri K. U. Mathai and thirty others.

Shri Punnoose: I refer to that, and also to other representations made by them.

Shri A. M. Thomas: With regard to that representation, for the information of this House, I may state that that memorandum after dealing with the forward contracts in general and also to the Spices Forward Contracts Prohibition Order of 1944 which, according to it, has worked splendidly well in that State, goes on to say how it had resulted in a great improvement in the pepper trade, which had resulted in Rs. 25 crores of foreign exchange to the country and later on states:

"All these wonders have taken place under the Spices Forward Contracts Prohibition Order, 1944, with the exemption clause allowing forward contracts with guarantees of non-transferability."

Mark the words 'with the exemption clause'; and then it goes on to say:

"It would be best in the interests of the trade and production not to tamper with the above-mentioned order."

So, it will be seen that even the representation from the small traders and producers did not amount to a total ban, but only to a representation on the model of the Bill as it has emerged from the Select Committee, that non-transferable specific delivery contracts should not be brought under the purview of this Bill.

I was surprised and even taken aback at the speech of my hon. friend Mr. N. S. Nair when he referred to certain tea parties and also at the manner in which he referred to certain persons who occupy respectable positions in the body-politic of my State. My hon. friend used the expression 'It would be even treason to allow forward contracts'. These remarks have only to be rejected—on the analogy of the remarks made by my hon. friend—that not allowing forward contracts will amount to treason. My hon. friend ought not to have adopted this forum for the ventilation.

Shri N. Sreekantan Nair (Quilon *cum* Mavelikkara): On a point of personal explanation. When I said treason, I was referring only to the sacrificing of the interests of the spice growers to the interests of some top-ranking gambler. I called that treason and nothing else, I was also supporting the exemption.

Shri A. M. Thomas: I went through my hon. friend's speech, and I saw the remarks that it would be treason to allow forward contracts.....

Shri N. Sreekantan Nair: My hon. friend should take into account the context in which the word was used, and not merely the dictionary meaning of the word.

Shri A. M. Thomas: Anyhow, my hon. friend ought not to have allowed himself to ventilate his personal grievances in the despair in which he finds himself in that State's political set-up, and his reference to certain social functions when the hon. Minister of Commerce and Industry visited that State is unbecoming of the tradition, culture, stature and eminence of my State.

Shri Punnoose: May I make a submission? The hon. Member Shri N. Sreekantan Nair said that he did not attach any importance to it, but only that reference had been made to it by certain quarters.

Shri A. M. Thomas: I shall now come pointedly to the modification made by the Select Committee. Mr. Chatterjee in his speech has referred to certain wartime measures. You, Sir, on several occasions have invited the attention of this House to this matter, and have put the question "What exactly is the reason or the experience gained for the Government to make a modification in the Bill, for including non-transferable specific delivery contracts?" My submission before this House is that the experience gained by the Central Government justifies such a conclusion.

First I shall refer to the Cotton Forward Contracts in current crops Prohibition Order of 1943. Under rule 5 of that Order,

"The Central Government may by notification in the Official Gazette exclude any contract or class of contracts from the provisions of this Order."

Under the powers vested in the Central Government under this Order what has been done is this. Forward contracts for *kapas* or cotton, full-pressed, half-pressed or loose, of specific qualities or types and for specific delivery at a specific price, delivery orders, railway receipts, or bills of lading against which contracts are not transferable to third parties have been exempted.

In the Oilseeds Forward Contracts Prohibition Order of 1943 also, there is a similar clause empowering the Central Government to exempt certain

types of contracts wherever found necessary. In exercise of the powers vested in the Government by that Order, forward contracts for groundnut, linseed, mustard seed, rapeseed or tiliaseed of specific qualities or types and for specific delivery at a specified price, delivery orders, railway receipts or bills of lading against which contracts are not transferable to third parties have been exempted.

Again, under a Notification issued by the Government on 4th September 1943, the following contracts were exempted: "Forward contracts for castor seed, cotton seed or gingili of specified qualities or types and for specified delivery at a specified price, delivery orders, railway receipts or bills of lading against which contracts are not transferable to third parties". So that my submission to this House is that the experience gained by the Central Government amply justifies this modification which has been made by the Select Committee which last sat on this Bill.

Much was said about the consistent stand or the inconsistent stand by the hon. Minister of Commerce and Industry. But I would state here that after the speech of Mr. Tulsidas I had occasion to go through the original speech which was made by Mr. T. T. Krishnamachari as a private Member and in that, though he had been very bitter in his criticism against the Bill he had not expressed himself one way or the other with regard to non-transferable specific delivery contracts. And if one reads between the lines of that speech, it will be found that he had his leanings towards exempting these non-transferable specific delivery contracts and not putting obstructions in the channel of normal trade.

I do not want to deal further with this aspect of non-transferable specific delivery contracts. I have pointed out that the experience in my State and the experience of the Central Government taken as a whole, amply justify this modification. I will only refer to two minor other points and then resume my seat.

My hon. friend, Mr. Chacko, was of the view that forward contracts should not be allowed except through associations. I submit that though it is an idealistic approach to the question, this legislation being in a very formative stage, we should not put restrictions on individuals with regard to this aspect.

Shri Velayudhan (Quilon *cum* Mavelikkara—Reserved—Sch. Castes): The Bill is for associations.

Shri A. M. Thomas: Mr. Chacko by the amendment tabled indicates that forward contracts should be allowed only through associations. I object to that wholesale restriction. There were also some remarks made in this House that recognition of these associations will lead to monopoly. But my opinion is that the clauses, as they stand in the Bill, give ample protection as laid down in the notes on clauses regarding the original Bill:

"Recognition will be granted only to a limited number of associations. Before granting recognition, care will be taken to see that the rules of admission do not exclude any section of the trade whose participation is necessary or desirable in the interests of the trade. Provision is also made for securing Government representation....."

I would only make another suggestion that it would have been better if some model bye-laws could have been appended to this Bill, as we see in the Indian Companies Act—Table A—giving certain model bye-laws. In that case there would not have been the necessity of having these published in the Gazette and then the Central Government interfering often. I may also point out that there is not sufficient sanction behind the observance of these bye-laws, because according to clause 15(2): "Any forward contract in goods entered into in pursuance of sub-section (1) which is in contravention of any of the bye-laws specified in this behalf under clause (a) of sub-section (3) of section 11 shall be void....." It is only stated that it shall be void; it is not stated that it shall be illegal. You know the distinction between void contracts and illegal contracts. With regard to void contracts, only the parties will not be in a position to enforce it through a court of law. There is no further sanction. Even in clause 20 prescribing penalty for contravention of the provisions of this Act, sub-clause (2) of clause 15 is not included, so that any member of an association can with impunity break any bye-law because the consequences will only be that he will not be in a position to enforce it through a court of law. It is stated in clause 20 under Penalty for contravention of certain provisions of Chapter IV—

"(1) Any person who—

- (a) without reasonable excuse (the burden of proving which shall be on him) fails to comply with any requisition made under sub-section (3) of section 8; or

[Shri A. M. Thomas]

(b) organises, or assists in organising, or is a member of, any association in contravention of the provisions contained in the proviso to sub-section (1) of section 18; or

(c) enters into any forward contract or any option in goods in contravention of any of the provisions contained in sub-section (1) of section 15, section 17....."

Sub-clause (2) is not included.

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): The hon. Member will see as a lawyer that we cannot in this House give that authority to bye-laws framed by the associations, even though they are approved by Government.

Shri A. M. Thomas: What will be the sanction when the bye-laws are violated with impunity? If we have to control it properly and regulate forward contracts properly, observance of the bye-laws must be made as a condition.....

Shri T. T. Krishnamachari: Club rules.

Shri A. M. Thomas: Whatever it may be. I am of the view that for regulating forward contracts efficiently, there must be some sanction behind the provision contained in sub-clause (2) of clause 15.

Shri Velayudhan: Bye-laws will be many.

Shri A. M. Thomas: I would also repeat that when framing the rules, some model bye-laws—as given in Table A of the Indian Companies Act—should be appended. In that case many of the abuses or criticisms can be avoided.

With these words, Sir, I support the Bill as it has emerged from the Select Committee.

पंडित ठाकुर दास भार्गव (गुडगांव) :
मैं फॉरवर्ड कंट्रैक्ट्स (Forward contracts) की इंट्रिकेसीज (Intricacies) से, जैसा कि वह बड़े बड़े शहरों में होती है, पूरा बाकिर नहीं हूँ। लेकिन जो चीज में जानता हूँ और जो मैं अर्ज करना चाहता हूँ वह यह है कि यह फॉरवर्ड कंट्रैक्ट्स का मसला सिर्फ बड़े शहरों के बास्ते ही नहीं है। आज हम छोटे छोटे क्लबों, छोटे छोटे शहरों में भी यह नई विद्दत देखते हैं। सभी लोग इस कंट्रैक्ट

के पीछे पड़े हुए हैं और फ़ौरन एक दम से लक्षपति और करोड़पति बनना चाहते हैं। यह जो आदत जुआ खेलने की रोज़ ब रोज़ बढ़ती जा रही है यह चीज़ ऐसी थी जिस के बारे में हर एक यह उम्मीद करता था कि गवर्नमेंट किसी न किसी तरीके से मौक़ा निकाल कर इस को बन्द करने का क़ानून लायेगी। हम इस क़ानून के पढ़ने से यह ज़रूर समझते हैं कि गवर्नमेंट ने जो फॉरवर्ड कंट्रैक्ट्स करते हैं उन की रोकथाम की कोशिश की है। लेकिन मैं मुतमईन नहीं हूँ क्योंकि यह क़ानून काफ़ी दूर तक नहीं गया है इस विद्दत को रोकने के बास्ते। आज सभी जगह पर इस तरह के कंट्रैक्ट्स होते हैं। भटिंडा में और जो ज़िला हिसार में छोटे से कस्बों हांसी सिरसा या हिसार में आज जा कर देखिये तो आप पायेंगे कि कई कई चैम्बर्स खुले हुए हैं और उन का काम सिवा सट्टेबाज़ी के और कुछ नहीं है। इस विद्दत को रोकना गवर्नमेंट का फ़र्ज़ था जिस में इस मुल्क से जुआबाज़ी उठ जाये। यह एक नैशनल सिन (National sin) बन गया है। एक छोटे से शहर भिवानी के अन्दर सट्टेबाज़ी होती है किसी और बुनियाद पर नहीं बल्कि इस पर कि अगर मेंह बरसेगा तो यह परनाला चलेगा या नहीं। अगर परनाला चलने जैसा पानी गिरेगा तो एक आदमी फ़लां शस्स को इतना रुपया देगा और अगर परनाला चलने जैसा पानी नहीं गिरेगा तो वह शस्स फ़लां आदमी को इतना रुपया देगा। एलेक्शन (Election) के पीछे सट्टा होता है कि फ़लां शस्स जीतेगा तो इतना रुपया दूंगा और अगर नहीं जीतेगा तो इतना रुपया तुम मुझे देना। तो आज यह आदत नैशनल सिन की तरह पर है। जो आदत प्रोपटी के जुवे में हार जाने के समय पर या दमयन्ती के हार जाने के समय पर भी वह आज भी चली आती है। दिवाली

के मौके पर लोग सट्टा खेलते हैं। हमारी गवर्नमेंट को चाहिये था कि इस आदत को बन्द करने के वास्ते कोई कानून लाती, इसे दुरुस्त करने के लिये कोई कानून लाना गवर्नमेंट की मोरल ड्यूटी (Moral Duty) थी। कम से कम छोटे शहरों में और गांवों में इस बिद्दत को जरूर दबाना चाहिये जिस में उन को गैम्बलिंग की आदत छूटे। इस के अलावा मैं इस बिद्दत का एक असर और देखता हूँ। छोटे छोटे दूकानदार अपनी हैसियत से ज्यादा सट्टेबाजी करते हैं। उन की हैसियतें हजार दो हजार की होती हैं और वह सट्टेबाजी करते हैं लाखों और करोड़ों की। नतीजा यह होता है कि वह सब के सब तबाह हो जाते हैं। आप किसी छोटे शहर में जाइये, आप बहुत से ऐसे आदमी पायगे जो इस बिद्दत की वजह से तबाह हो गये। मैं अर्ज करना चाहता हूँ कि इस बीमारी का कुछ न कुछ इलाज जरूर होना चाहिये। सरकार ने यह किया है कि चन्द शहरों में रिकग्नाइज्ड एसोसिएशन्स (Recognised associations) कायम करने की तजवीज रखी है। उन को भी पूरे अख्तियार नहीं हैं। जो इजाजत उन को दी गई है उस के मुताबिक वह सिर्फ कुछ ज़हद तक ही काम कर सकेंगी।

सारे कंट्रैक्ट्स के बारे में मेरा यह ख्याल है कि अगर कोई भी कंट्रैक्ट जो कि वेजिंग कंट्रैक्ट (wagering contract) मालूम होता हो खाह वह खालिस ओपशन (option) का सवाल न हो बल्कि उस में वेजिंग भी हो तो उस को रोका जाय क्योंकि वह तो और भी खराब है। अगर सरकार इस को नहीं रोकती है तो वह एक तरह से लोगों को जुआ खेलने की इजाजत देती है। मैं जानता हूँ कि नान ट्रांस्फरएबल स्पेसिफिक डिलिवरी कंट्रैक्ट

(Non-Transferable specific Delivery Contract) के अन्दर जुए का प्रचार होगा और रेडी डिलिवरी कंट्रैक्ट (Ready delivery Contract) में भी जुए की गुंजाइश है। इस आदत से देश में बहुत अत्याचार हो रहा है, इस को रोका जाय। हर एक आदमी को मेहनत कर के रोटी कमाना चाहिये, यह नहीं कि एक मिनट में जुए से लखपति और करोड़पति हो जाय। इस के वास्ते इस ऐक्ट के अन्दर कोई चीज नहीं। बल्कि इस के लिये जो चीज मैं देखता हूँ वह यह है कि मि० शाह ने एक नोट लिखा है। मेरे ख्याल में हर एक मन्बर इस की तारीफ करेगा और गवर्नमेंट की भी मंशा यही है गवर्नमेंट भी नहीं चाहती कि सट्टेबाजी हो। लेकिन अगर गवर्नमेंट सट्टेबाजी को नहीं रोकती तो एक तरह गवर्नमेंट सट्टेबाजी के साथ कनाइव (connive) करती है। जब शारदा ऐक्ट यहां हाउस में आया था तो हम जानते थे कि उस पर अमल नहीं होगा लेकिन उस का मारल असर बहुत बड़ा हुआ। हजारों केसेज में से किसी एक पर मुकदमा चलाया गया होगा मगर उस का देश पर बहुत अच्छा मारल असर पड़ा। अगर गवर्नमेंट उन बहुत सी चीजों के लिये ही यह कर देती कि जिन में स्टेबिलाइजेशन आफ प्राइसेज (Stabilization of Prices) के लिये सट्टेबाजी की जरूरत नहीं है उन चीजों में सट्टेबाजी न की जाय और वेजिंग कंट्रैक्ट को वाइड (Void) करार दे देती तो यह बिद्दत मुल्क से बहुत कुछ दूर हो जाती। अगर गवर्नमेंट यह एलान कर देती कि जिस कंट्रैक्ट में एक्जुअल डिलिवरी भी लाइबल (liable) कर दिया है। मैं अदब से अर्ज करना चाहता हूँ कि क्रिमिनल ला के मुताबिक उसी शरूत को मुजरिम करार दिया जा सकता है जिस का उस बिन्नेस

[पंडित ठाकुर बास भागंब]

(Actual delivery) न हो फिर चाहे वह ट्रांसफरेबिल हो या नान ट्रांसफरेबिल हो वह बाइड करार दे दिया जायगा तो यह विद्वत किसी क्रम दूर हो जाती। मेरी शिकायत यह है कि आप ने जानते हुए भी इस विद्वत को दूर करने की कोशिश नहीं की। आप इस हद तक तो गये हैं कि यह चीज बुरी है लेकिन इस को रोकने की कोशिश नहीं की। आप ने कुछ इलाकों में इस को रेग्युलेट (Regulate) करने की कोशिश की है।

मैं ने शाह साहब का नोट आफ डिसेंट (Note of dissent) भी देखा है पर वह भी बहुत दूर तक नहीं जाता। जहाँ तक फारवर्ड कांट्रेक्ट का सवाल है मैं उस के तो खिलाफ नहीं हूँ। अगर कोई शरूस हाउस में आ कर कहे कि फारवर्ड कांट्रेक्ट को बन्द कर दिया जाय तो यह कहना ठीक नहीं होगा। क्योंकि अगर ऐसा कर दिया जाय तो सारी इंडस्ट्री (Industry) ही खत्म हो जायगी। इंडस्ट्री वाले कई महीने पहले से फारवर्ड कांट्रेक्ट कर लेते हैं जैसे कि रई में और दूसरी चीजों में होता है। इसके कोई खिलाफ नहीं हो सकता क्योंकि इस से तो स्टेबिलाइजेशन आफ प्राइसेज होता है। लेकिन जहाँ पर डिलीवरी का सवाल नहीं है और जहाँ पर बहुत ज्यादा ओवरट्रेडिंग (overtrading) होता है उस से मैं समझता हूँ कि नुकसान होता है। इसी वस्ते हमारे मिनिस्टर साहब ने फरमाया है कि यह पहला इंस्टालमेंट (Instalment) है लेकिन मैं समझता था कि गवर्नमेंट पहले ही इंस्टालमेंट में इस की कुछ रोकथाम करेगी। पर यह पहला इंस्टालमेंट तो एक होमियोपैथिक इंस्टालमेंट सा है। वह इस विद्वत को नहीं

रोकता। आप ने इस में यह भी नहीं कहा कि जिस फारवर्ड कांट्रेक्ट में डिलीवरी नहीं होगी वह बाइड होगा। आप्शन और बेजरिंग कांट्रेक्ट में फर्क है। लेकिन जहाँ डिलीवरी न हो उस को बाइड माना जाना चाहिये। यह तो हुई उसूल के मुताबिक बात।

दफा १८ की में ज्यादा तफसील में जाना नहीं चाहता। आनरेबुल मिनिस्टर साहब ने कहा कि जहाँ के लोग चाहेंगे वहाँ वह इजाजत दे देंगे। तो इस से कोई फर्क नहीं पड़ता। जैसे अगर बम्बई वाले चाहें तो मिनिस्टर साहब कहते हैं कि वह इजाजत दे देंगे और १८ (३) का इस्तेमाल करेंगे।

मैं तो एक दूसरी बात की तरफ तबज्जह दिलाना चाहता हूँ। दफा २२ का जो पहला क्लॉज रखा गया है मैं उस के बारे में अदब से तबज्जह दिलाना चाहता हूँ। मैं कुछ असें से यह देखता आ रहा हूँ कि जहाँ कम्पनीज का सवाल आता है तो आम तौर पर हाउस का यह रवैया रहा है कि उस कम्पनी से जो भी ताल्लुक रखता हो उस पर जुर्म आयद कर दिया जाय। चाहे वह छोटा हो या बड़ा हो, या उस का उस से ताल्लुक हो या न हो, सब पर जुर्म लगा दिया जाता है। यह इन्साफ नहीं है। एक कम्पनी के डाइरेक्टर को एक ऐसे काम के लिये जिम्मेदार ठहराया जाता है जिस का उसे इल्म तक नहीं है। जिन कम्पनियों में मैनिजिंग एजेंट (Managing Agent) होते हैं उन में डाइरेक्टरों को क्या पता रहता है। लेकिन आप न डाइरेक्टर को, सेक्रेटरी को, मैनेजर को यानी हर शरूस को, जिस का कोई भी बास्ता उस बिजनेस (Business) से न हो उस को

भी लाइबल (liable) कर दिया है। मैं अदब से अर्ज करना चाहता हूँ कि क्रिमिनल ला के मुताबिक उसी शस्त्र को मुजरिम करार दिया जा सकता है जिस का उस बिजनेस से ताल्लुक हो। ऐसा नहीं हो सकता कि एक डाइरेक्टर उस काम के लिये जिम्मेदार करार दे दिया जाय जिस का कि उसे इल्म तक नहीं है। आप को मालूम है कि उस ने जुर्म नहीं किया है, लेकिन चूँकि वह एक कम्पनी का इनचार्ज है और बड़ा आदमी है और एक कैपिटलिस्ट (Capitalist) है इसलिये उस को फांसी दे दी जाय। मैं अदब से अर्ज करूँगा कि यह दुरुस्त नहीं है। दुरुस्त यह है कि चाहे वह छोटा हो या बड़ा हो अगर उस की नीयत उस जुर्म में है तो उस पर मुकदमा कायम किया जाय। मैं चाहता हूँ कि इस में यह लिखा जाय कि जिस पर जुर्म आयद हो उसी को मुजरिम करार दिया जाय। लेकिन अगर किसी की नालिज (Knowledge) में यह काम नहीं है तो उस को मुजरिम करार नहीं देना चाहिये और जिस की नालिज में यह काम हुआ हो उस को यह साबित करने का मौक़ा देना चाहिये कि उस ने उस बुराई को बचाने की पूरी कोशिश की। अगर वह यह साबित कर सके तो उस पर भी जुर्म आयद नहीं होना चाहिये।

इसी सेक्शन २२ के क्लॉज २ में यह दिया है कि जो भी इनफ़ेक्शन के वास्ते जिम्मेदार हो उस को मुजरिम करार दिया जाय। अगर किसी कम्पनी में किसी खास आदमी के सुपुर्द फारवर्ड ट्रेडिंग का काम है और वह अपने फ़र्ज में कोताही करता है उस को मुजरिम करार दिया जाय और उस को सज़ा दी जाय। लेकिन जितने भी आदमी उस कम्पनी में काम करते हैं उन सब को मुजरिम नहीं करार दिया जा सकता।

मैं हर एक बिल में यही चीज़ देखता हूँ। अभी हमारे सामने फूड स्टफ़्स अडल्ट्रेशन बिल (Food-stuff Adultration Bill) मौजूद है। उस में भी यही देखता हूँ। उस में भी क्रिमिनल ला के जो उसूल हैं उनका ध्यान नहीं रखा गया है। मैं आनरेबुल मिनिस्टर साहब से यही दर-खास्त करना चाहता हूँ कि वह इसमें यह देखें कि ...

Shri T. T. Krishnamachari: The Minister has not understood a word of what he said.

Pandit Thakur Das Bhargava: All right, Sir. When I move my amendment, I will speak in English.

Shri Bhawanji (Kutch West): I rise to support the motion made by hon. the Minister of Commerce and Industry for the consideration of the Forward Contracts Bill, as reported by the Select Committee.

Mr. Deputy-Speaker: After the hon. Member finishes, I intend calling the hon. Minister.

Shri B. S. Murthy (Eluru): Sir, all of us are anxious to speak. Till now they have been supporting the Bill.

Mr. Deputy-Speaker: There are some who support it and some who oppose it. I am not interested one way or the other. I shall give ample opportunities to all. Most of the discussion centres round clause 18, (a), (b) or (c). Therefore when that clause comes, whichever hon. Member is anxious to speak, I will allow him to speak, on all relevant matters and somewhat remotely relevant also I will allow.

Shri M. S. Gurupadaswamy (Mysore) rose—

Mr. Deputy-Speaker: He will be called during the third reading.

Shri Bhawanji: I have followed with care the debate that has taken place on this Bill in this House during the last three days. It has mostly centred round the question whether the non-transferable specific delivery contracts should or should not come under the purview of Chapters III and IV. According to me, the issue is between the small trader and the big businessman and speculator. The question is whether we

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want to hand over the non-transferable specific delivery contracts to the speculator or do we want these contracts to be carried on as they have been carried on for centuries through the normal trade channels? That is the issue to be decided by this House. I have no doubt that the sympathies of the House would be with the small trader. In support of the amendments moved by certain Members, especially Mr. Chatterji, it is said that there has been a lot of misuse of these non-transferable specific delivery contracts and that is why clause 18 should be brought under Chapters III and IV. The House will remember that during the war when all forward contracts were prohibited in the country by the then Government, these non-transferable specific delivery contracts were allowed to go on. One hon. Member has this morning made a reference to those control orders. It will be clear from this that even during the emergency of a war, these contracts were considered necessary and were permitted.

This Bill has a long history. When the first Bill was introduced, Government were cautious. They prepared a draft and it was circulated to numerous commercial associations and to all State Governments and after obtaining their opinions, an Expert Committee was appointed. That Committee consisted of eminent persons. The Chairman at that Committee was Mr. A. D. Shroff, Director of Tata & Sons Ltd. and also Director of Tata Oil Manufacturing Co. Ltd., one of the biggest consumers of oilseeds. Among other members were Mr. C. C. Shah, Mr. R. G. Saraiya, Mr. Goenka and Mr. Ratilal M. Gandhi. As you probably know, Mr. R. G. Saraiya is the Vice-President of the Indian Federation of Chambers of Commerce and Industry and also Vice-President of the Indian Central Cotton Committee. Mr. Ratilal Gandhi is a former President of the Indian Merchants Chamber and one of the founders of the Bombay Oilseeds Exchange Ltd. and for many years its President. Mention has been made by some Members about the attitude of the Bombay Government. Members will perhaps be surprised to know that one of the members of the Committee was Mr. Venkatappah, the then Finance Secretary of the Bombay Government. Also, the Government of Bengal was represented by Mr. Das Gupta, the Secretary of the Finance Department of that Government. From this, it will be seen that this Expert Committee consisted of eminent persons having practical and administrative

knowledge of this subject. They went into the whole question of the different contracts, their usefulness or their misuse etc. etc. Perhaps, you would permit me to read a relevant portion from that Expert Committee's report. They say:

"Forward contracts are mainly of three kinds: Futures contracts; transferable specific delivery contracts and non-transferable specific delivery contracts."

After discussing the first two varieties of contracts, they proceed to deal with non-transferable specific delivery contracts in the following manner:—

"Non-transferable specific delivery contracts are in a different category, since such contracts cannot normally be used for speculative purposes. Here also, the Committee's attention has been drawn to instances in which speculation is reported to have taken place or to be taking place, on the basis of non-transferable specific delivery contracts. However, the Committee considers that it would cause, serious inconvenience to trade, and make normal trading practically impossible, if such contracts are not exempted from the restrictions applicable to contracts of the other two varieties. The Committee has, therefore, come to the conclusion that while the scheme of regulation envisaged in this Bill should apply to futures contracts and transferable specific delivery contracts Government should have the power.

- (a) to exempt transferable specific delivery contracts, where their inclusion is likely to cause unnecessary hardships or inconveniences to the trade concerned, and
- (b) to impose such regulation as it may deem fit on non-transferable specific delivery contracts, where there is positive evidence that their exclusion from the scheme has encouraged practices likely to defeat the purposes of this Bill."

1 P.M.

Mr. Deputy-Speaker: Is he likely to take long?

Shri Bhawanji: Yes, Sir.

Mr. Deputy-Speaker: Then he may resume after Lunch.

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

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

[MR. DEPUTY-SPEAKER in the Chair]

Shri Bhawanji: When the House rose for Lunch recess, I had concluded reading an extract from the Expert Committee's Report. I am happy indeed that the Select Committee has accepted the recommendations of the Expert Committee, so far as clause 18 goes. In this House some hon. Members have levelled criticism against the hon. Minister in charge of this Bill for changing his opinion. I am one of those who admire persons who change their opinion when they consider that the earlier opinion they held was wrong. From that point of view, if at all, the hon. Minister deserves the admiration of the House, not criticism.

One of those hon. Members who opposed this clause—Mr. Chatterjee, if I mistake not—argued that these contracts are very often misused and they are turned into forward contracts. He mentioned, I think, the name of a particular association. I am afraid the hon. Member was very unfair to that association. I come from Bombay—though I do not represent it in this House—and I am also in trade. I had the privilege of occupying official positions in many commercial associations—some of them recognised associations. The association referred to by my hon. friend Mr. Chatterjee is one of the two oldest associations in the City of Bombay with a standing of over fifty-two years. This association during its long career very strongly resisted the efforts of some of its members to start a forward contract in the association, but when these members found that this association would not start forward contract they formed a new association called the Bombay Oilseeds Exchange Ltd. And now cudgels are taken in this House against an association which stood against forward contracts.

It is said that contracts started by this association were misused and ultimately they were squared up. I know that incident well. It is true that association had to square up the outstanding contracts. It was not the fault of that association. To best of my knowledge a situation was created by a big operator in Hyderabad who cornered all the available groundnuts in that area and it was not possible for a genuine trader to get any stock unless he was prepared to pay high prices. Examining the situation, this association came to the conclusion that it was in the interest of the small trader and trade

as a whole that all outstanding contracts under the circumstances should be squared up. They consulted the Government of Bombay and with the full approval of the Government of Bombay they called a meeting of manufacturers, exporters and sellers where a price was agreed to and the contracts were squared up. This incident has happened once in the career of that association of 52 years and that too was done in the interest of the seller. To quote this incident and cite it as an instance how this clause would be abused, is not fair to the association. The Expert Committee was fully aware of this position, but they have said that for the sake of a few abuses, you cannot penalise the whole trading channel.

The opponents of clause 18 have based their arguments on three grounds. First: that this contract will be misused. Secondly—they are very clever people—they say that if the original clause is restored, the small trader is not likely to be inconvenienced. Thirdly they say that the Bombay Act of 1947 has worked so satisfactorily that there is no case for clause 18 as reported by the Select Committee.

So far as the possibility of misuse is concerned, suppose the House in its collective wisdom decides to restore the original clause 18, what would be the position? Wherever recognised associations exist, business through the members of that association can only be transacted. Now before the Bombay Act came into force what was the position of these associations? With the exception of East India Cotton Association these associations consisted of a couple of hundred members and as soon as the fixed number was reached, further membership was stopped. If any new trader had to enter that association for business, he had no scope. He must wait till some of the members were inclined to sell their membership. The membership fee at one time had gone up to Rs. 95,000 in one association and Rs. 45,000 in another association. Is it possible for a small trader to spend such a large amount of money on membership alone? The Bombay Government, of course, removed these restrictions and the membership was thrown open to any genuine trader.

Even then, what is the position? For the membership of the East India Cotton Association one has to pay a deposit of Rs. 20,000 and an entrance fee of Rs. 2,500, besides the annual fee. For the membership of the Bombay Oilseeds Exchange one has to pay a deposit of Rs. 15,000, some

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entrance fee and an annual fee. Is it possible for a small trader to block his capital to that extent? For fear that some of the traders or association may misuse this clause why eliminate the small trader? The remedy is there in clause 18(3). Government will enforce that sub-clause as soon as misuse is detected and the hon. Minister has assured us more than once in the course of this debate that as soon as any State Government asks for a notification to be issued, the notification will be issued immediately. In this respect I would however appeal to the hon. Minister in charge that even if a State Government applies, he should himself examine the position and give an opportunity to the interests concerned to put their point of view before him so as to enable him to come to a correct decision.

The second argument put forth was that if the original clause 18 is restored, the small trader is not likely to be inconvenienced nor the normal trade paralyzed. I shall read a small extract from the Minute of Dissent written by Shri Tulsidas Kilachand and Shri Somani. They say:

"There seems to be a belief in some quarters that if non-transferable specific delivery contracts are brought within the purview of the Bill, the small upcountry trader will be severely handicapped and that the *bona fide* trader may be greatly inconvenienced. Such a belief is entirely unfounded and misplaced. The recognised association will generally be recognised only for a city or for some such limited area and, except in a few exceptional cases its authority will not extend beyond that area."

I think this argument is, again, inaccurate. Here I am fortified by a report made by the Cabinet Committee of the Bombay Government. When the Bombay Government were thinking of amending the Cotton Control Act of Bombay, the Bombay Cabinet had appointed a Cabinet Committee, and that Committee has visualized the areas and the scope for the associations. It is a small extract and I shall read it:

"The Committee considers that normally no region need have more than one recognized association of this kind".

So far as the State of Bombay is concerned they have also mentioned which are going to be the regions. In their opinion besides Bombay,

Gujarat, Maharashtra and Karnatak should be the areas.

Take the case of Gujarat first. Naturally, there will be a recognized association in Ahmedabad. If that happens—because according to the Bombay Government in one region there cannot be more than one recognized association—a small trader who trades in the interior of Gujarat, say in Bardoli, Surat or Navsari, and if he wants to sell even fifty bales, he has either to become a member of the recognized association in Ahmedabad or do his transactions through a member of that association and pay him the brokerage. These transactions always take place on the spot and there is no time of wiring or telephoning Ahmedabad, asking somebody to act on one's behalf and do the trading. Is it fair? From this it will appear that these areas are going to be very big. So far as the State of Bombay is concerned there are going to be four areas. And to expect a small trader in the remotest part of the area to trade only through that association is an argument that will not hold good.

The third argument which was advanced was that the Bombay Act of 1947 has worked so well that the Central Government need not have any fear about the good functioning of the recognised association. Before this Act of 1947 came into force there used to be the Cotton Control Act and only the East India Cotton Association was recognized under that Act. And it is my proud privilege to say that if any association has fulfilled the requirements and carried out the spirit of that Act it is the East India Cotton Association. When the Act of 1947 came into being the Bombay Government immediately started enforcing that Act. In the course of five years they have been able to apply this Act only to two more commodities, and those two commodities are bullion and oilseeds.

Let us examine what has happened with regard to those two commodities. As soon as this bullion exchange was recognized there was a big fluctuation. Very often they declared emergencies, prices were cut, outstanding businesses were squared up, and for almost every settlement there used to be some suit in the Bombay High Court, injunctions were got and litigation went on. At one stage the Bombay Government was bold enough to suspend the board of that association. Perhaps the old Members of this House will remember that

the unfortunate Mudgal Enquiry was the result of the happenings in this association.

Take the other association, which is the Bombay Oilseeds Exchange Limited. What has happened there? In March 1952 big fluctuations took place there and ultimately the Association was compelled to fix a price and square up the business. Some litigation about the validity of the contract run by that association is pending before the High Court. The matter being *sub judice* I would not say more about it. But if this is going to be the 'satisfactory' working of these associations, Sir, God forbid!

Mr. Deputy-Speaker: Will not this objection apply equally to those associations which deal with transferable specific delivery contracts?

Shri Bhawanji: It is suggested here by some Members that where a recognized association exists, the working of these non-transferable specific delivery contracts should be entirely entrusted to that association and that those associations are working satisfactorily. I am showing to what extent these associations are working 'satisfactorily'.

In spite of five years of existence of this Act the Bombay Government have been able to bring only two more commodities under this Act. In many other commodities speculation is going on rampant. The Bombay Government in spite of its anxiety, is not able to curb speculation and bring more associations under the control of that Act. And the working in respect of these two commodities which they have brought under the control of the Act is not satisfactory. That being the position, to ask the Central Government that they should accept the position that where a recognized association exists, non-transferable specific delivery contracts should not be entrusted to any other body is an argument that will not appeal to anybody.

There is a lot of criticism about controls in this country. We know that at present there is no alternative for the Government but to have some sort of control, because in our planned economy we need control. But why are controls unpopular? Controls are unpopular because they are not worked properly. In the present case also this Bill is a necessity. We are enacting it. But we should not rush in a way that we are not in a position to

work the control efficiently in the interests of the consumers and the agriculturists. That is why I would appeal to the hon. Minister in charge of the Bill that even when this Bill becomes an Act he should hasten slowly and with care.

Shri T. T. Krishnamachari: I am afraid the discussion on the motion before the House baffles all attempts at classification. Some hon. Members have condemned the measure out of hand which, in my humble opinion, in cases where such condemnation has been made for *bona fide* reasons, arises out of a misconception of the scope and utility of the measure. There are yet a few others who gave halting support to this measure. And in supporting the measure they had reservations in regard to the small trader and also in regard to the primary producer. Of course, the big guns of the Opposition—I see that the guns are conspicuous by their absence—Mr. Tulsidas Kilachand and Mr. Chatterjee, focussed their attention on clause 18. The House must have heard with great interest the views expressed by Mr. Tulsidas Kilachand. It is well known that he has infinite experience of forward markets and I am also told that his knowledge was reinforced by the arrival of expert advisers from Bombay in order to brief him for the purpose of opposing clause 18 in the measure before the House. Mr. Chatterjee, on the other hand, opposed clause 18 with disinterested motives. One cannot but admire him for his performance, his deep legal erudition, and his understanding—minute understanding of human nature—were all brought to bear on this particular provision in the Bill. To the very informed but nonetheless critical support given by several hon. Members, Mr. Gandhi, Mr. Heda, Mr. Altekar, Mr. Bansal, Mr. Raghobachari, Mr. Thomas and lastly the speaker who has just concluded, Mr. Bhawanji Khimji, I am deeply grateful. I am rather loath to touch on a personal note. I think Mr. More will laugh. Accepting Mr. More's concern, with him I would like to measure all swords, verbally of course.

Shri S. S. More (Sholapur): We are all non-violent.

Shri T. T. Krishnamachari: But I do hope my hon. friend from Travancore, Mr. V. P. Navar, has no expectations of a reply from me.

Shri V. P. Nayar (Chirayinkil): Why? Yes. I do expect a reply.

Shri T. T. Krishnamachari: Well, I have been given permission, Sir, to reply but I do not propose to take advantage of it. He has been very assiduous in finding printed support for all that he has had to say before the House. The only regret is that so much labour has been spent in such an infructuous manner. We have all been in the Opposition and—you would permit me to include the Chair along with myself—we have measured swords with probably more men who were as hard as steel but I do not think that there were many occasions when we had to use vituperative language. We had plenty of arguments. Vituperation only comes when a person is bereft of arguments. I do not want to complain against the hon. Member in that pretty language. In fact, my only regret is that even for purposes of using vituperative language, he has to use it second-hand, using the language used by my very distinguished predecessor in this office on a previous occasion. We are all getting on in years and I think my hon. friend would not mistake me as being in any sense patronising when I tell him he has a long way to go in politics and I do hope that as time goes on his vituperation will gather greater strength and he could depend less and less on second-hand material.

The hon. Member used a very picturesque phrase in regard to the working of the Commerce and Industry Ministry—which I see has been quoted by the gallery also—that the grievances of the public have their appropriate place in the waste paper basket of the Ministry. I can assure my hon. friend that my waste paper basket is an extremely small one. There are no niches in it. Often times these grievances go into files but he must understand that the response to such grievances communicated to Ministries in the Government of India is more or less in inverse ratio to the hon. Member's party's capacity to manufacture them.

My hon. friend Mr. Raghuramaiah from Madras had something to say about advisory committees. I thought I made it very clear at the time that I moved this motion for consideration, what the duties of this Advisory Committee were, at any rate, as far as I contemplated it. The Forward Markets Commission would be a limb of the Ministry. As such the question whether the advice that it offers is one that the Government has to accept or not does not really arise. The membership of the Forward Markets Commission is limited. The most we could expand it is

three. Now I felt that we are embarking on a measure about the operation of which one cannot foretell either in the scope or in the nature of it. For the moment let it associate with the vested interests and the general public in some kind of consultative capacity. The Advisory Committee referred to in clause 25 is of this nature. The composition of this Committee has to be evolved and has been left to the rule-making powers of the Government. Surely I do not think that any hon. Member will say that it is wrong to have an Advisory Committee of, say, 15, 20, as the case may be, associating people who are in the trade, who are engaged in operations in forward markets and others who ask for our advice in regard to particular commodities. I cannot see why anybody should dovetail this Advisory Committee into the Forward Commission and say one is redundant. I am afraid it arises out of the fact that my capacity for elucidating facts is not adequate. I recognise my limitations but one limitation is recognised. I do hope the hon. Members of this House understand what the purpose of this Advisory Committee is. I hope they will not object to it.

3 P.M.

I shall first deal with the criticism of Mr. N. C. Chatterjee. I think that it would perhaps be better if I restate the position now, though, I think I am almost guilty of repeating my arguments. The Bill of 1950 closely followed the recommendations of para. 5 of the Expert Committee's report. My hon. friend who spoke before me mentioned this. The Bill of 1950 specifically stated that Chapters III and IV shall not apply to non-transferable specific delivery contracts, which was the first recommendation of the Expert Committee in regard to such contracts.

The second recommendation of the Committee was that while the Bill should apply to all futures contracts, transferable specific delivery contracts as well, the Government should have the power to exempt transferable specific delivery contracts where the inclusion of such contracts is likely to cause unnecessary hardship and inconvenience to the trade concerned. In the 1950 Bill, this was sought to be done by the provision of clause 25 of the Bill. That was the exemption clause. In the present Bill, it is clause 27. The Select Committee in examining this particular clause—I mean the present Select Committee—felt that it

would give greater confidence to those interests which had pressed for such an exemption if such an exemption be put in so many words in the body of the Bill, and provision in clause 18 (2) is the result.

The third recommendation of the Expert Committee was that Government might impose such regulation or control as it may deem fit on non-transferable specific delivery contracts where there is positive evidence that their exclusion from the section has encouraged practices likely to defeat the purpose of the measure. This provision was made by sub-clause (2) of clause 18 of the original Bill. The House knows, the change which the Select Committee of 1951 made. The specific exemption of non-transferable specific delivery contracts was taken out and substituted by imposing an obligation on the Government *viz.* as soon as a notification under clause 15 had been issued, to issue a like notification defining the area in which a recognised association may also regulate and control non-transferable specific delivery contracts, and so on. If the Government does so, the provisions of Chapters III and IV shall apply to non-transferable specific delivery contracts only in such area or areas and only to such goods or class of goods as are mentioned in the notification. Naturally, sub-clause (2) of the original Bill became inoperative after the insertion of this provision. There was another sub-clause—sub-clause (2) to clause 18 as reported by the first Select Committee—which provided that if the Government felt that it was expedient to regulate and control non-transferable specific delivery contracts in any area to which the provisions of this Chapter and Chapter III do not apply, it may issue a notification. The point that I would like hon. Members to note is this. Sub-clause (2) of clause 18, as it stood when the Bill was sent to the Select Committee, contemplated something far beyond what was necessary. If the Government felt that it was expedient to control and regulate all non-transferable specific delivery contracts in any area to which the provisions of Chapters III and IV did not apply, it may by notification declare that all or any of the provisions of these Chapters would apply to such areas as are notified. That is something outside the range of the Bill itself, because the Bill is circumscribed by the provisions of clause 18. This went far beyond what the purpose of the Bill was. It was not made very clear. I said before when I commenced to speak

on the motion to consider the Select Committee's report that there are some misgivings in this matter and I was not inclined to alter the provisions, at any rate of clause 18 (2) merely because it has been approved by a duly constituted Select Committee of a House which is the predecessor of this House. Of course, the contention is that this provision should have been maintained intact and no change should have been made. None of the hon. Members who spoke on why this provision should have been maintained intact, really adverted to the point. What was the significance behind clause 18 (2)? Neither the hon. Mr. Tulsidas nor the hon. Mr. Chatterjee made any reference to it. With this background, I would like to say a few words in regard to what Mr. Chatterjee said. Because, on the merits of the case, of the two speeches made in this connection, Mr. Chatterjee's is a positive contribution whereas my hon. friend Mr. Tulsidas was just quoting this and that, and quoting my own words, which is merely tight rope dancing.

In dealing with Mr. Chatterjee's speech, I would like to express my gratitude at the very outset for the very eloquent support that he gave to general principles of the Bill. I think with his very lucid analysis of the position, he must have convinced all doubting Thomases—I do not mean my hon. friend Mr. Thomas—in this House about the need for a measure of this nature. As other hon. Members have also underlined what he said, he made it extremely clear that as we are today in an economy which may be called mixed economy, where the market economy comes in, some such Bill is necessary in order to regulate forward contracts, and that is all that this present measure seeks to do. In regard to his opposition to clause 18, I would like to mention them *seriatim*. One was that the Bombay Act was different and so why the Central Act should be, something else. Of course, the 1951 Select Committee changed the pattern from the Bombay Act. He found no reason why another Select Committee should change it again. He also said that no complaints have been received about the working of the Bombay Act or at any rate, about the difficulties in the working of the Bombay Act. Of course, it is a pity that he did not wait to listen to the speaker who spoke before me, Mr. Bhawanji. So far as clause 18 (3) is concerned, which puts the same power in the hands of the Government as was conceived by clause

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18 (2) as it originally stood, he just dismissed it casually. Of course, you, Sir, know that lawyers dismiss casually any opposition which is inconvenient as being window dressing. Give the dog a bad name and hanging follows suit.

Shri Gadgil (Poona Central): Not necessarily.

Shri T. T. Krishnamachari: He raised doubts whether vested interests had something to do with the change. I would like to say this to the House—I hope it would be reported, at least some portions of it, and he may read it, if he reads newspapers as I have to do—I had no knowledge that vested interests were moving powerfully on both sides. It has been a flanking movement on both sides.

Shri Gadgil: It seems a hedging contract.

Shri T. T. Krishnamachari: It is hedging and not a hedged contract.

Of course, vested interests are never alone. They are in legion, and they act in different directions. It did seem to me that vested interests had acted both ways, and unfortunately, it seems that the vested interests on his side are more powerful because they raised the largest amount of noise. I am still at a loss to understand, still unable to recognise in actual practice so far as this measure is concerned, the difference between an obligation on the part of the Central Government to define the area in which an association recognised under clause 15 may regulate and control non-transferable specific delivery contracts, and a provision giving Government permission to put non-transferable specific delivery contracts in the same category as other types of forward contracts in respect of certain areas where the provisions of Chapters III and IV are already applicable. I humbly maintain that in essence, if the Central Government is willing—and I believe it ought to be willing—to be guided by the needs of each locality in which Chapters III and IV would apply, the difference that is sought to be made between the provisions of clause 18 (1) as it originally stood and clause 18 (3) as it now stands, is a difference between tweedledum and tweedledee.

My hon. friend Mr. Chatterjee referred to instances where compulsion has been exercised by associations making members square up non-transferable specific delivery

contracts long before the due date on terms not advantageous to the parties to the contract and so on. It only seems to indicate that no matter what you do, whether you put them inside the pail of the association or outside it, powerful vested interests will act in their own way. The instances he cited seem to be almost in support of the plea that non-transferable specific delivery contracts should not be included within the purview of an association, because an association, by virtue of its corporate strength, and the authority and the sanction that Government gives to it—though it is not as far as my hon. friend Shri Thomas would like to give it—exercises a certain amount of undue influence. I do not know what he had in mind. Perhaps, if I had raised this point, he would have said "That is exactly my case", because I remember an instance which used to be retailed very often in Madras of a very brilliant lawyer who, after lunch, was a little unsteady, and argued the case for the other side. When the Judge pointed out to him: "Mr. Grant, you are arguing the case for the other side", he said "That is exactly my point. I was telling your Lordship that the case for the other side was only this, and now I shall begin my own case." So, that is the difficulty when laymen like myself have to deal with lawyers of repute. Very possibly, if he had been here, he would have said: "That is precisely my point".

Mr. Deputy-Speaker: I suppose in this case, the lunch would not have had any effect!

Shri T. T. Krishnamachari: One never knows. One can never tell. Coming back again to his arguments, I have said before I am unable to take the arguments of my hon. absent friend Shri Tulsidas Kilachand as seriously as those put forward by Mr. Chatterjee. Of course, I have all praise for that well-prepared speech. For that, I had also to prepare my speech, but my trouble is that if I say something, it might be quoted against me again. So, I thought I had better put down my ideas in dealing with a clause which seems to have evoked so much controversy, and about which, even though my hon. friend Mr. Heda is surprised at my assumptions of modesty, I cannot but be modest where I am comparatively ignorant.

There is one point which I would like to say in this regard. Mr. Tulsidas referred to the evidence tendered before the 1951 Select Committee by

various bodies, and emphasized the importance that should be attached to such evidence. I grant it, and I think the House will also grant, that the evidence was very important particularly when I mention the names of persons who tendered the evidence. I do not want to join issue with him at all on the question of the importance of the evidence tendered before the 1951 Select Committee. In fact, the representative on behalf of the Federation of Indian Chambers of Commerce before that Select Committee was the hon.—then he was not hon.—Mr. Tulsidas Kilachand himself, and can you say that his evidence is not important? It was important.

Dr. Lanka Sundaram (Visakhapatnam): What did he say then?

Shri T. T. Krishnamachari: He said then exactly what he said now. He has now practically got it by heart. So, he has not got to change.

Mr. Ramdas Kilachand represented the Bombay Oilseeds Exchange. Can I say his evidence is not important? Mr. Devji Rattanji represented the Grain & Oilseeds Association and presented an opposite point of view. Two associations from Ahmedabad also came and presented their evidence. The bullion trade was also represented—and honestly, Mr. Deputy-Speaker my one regret is that, in bringing this measure before the House, I did not put in there a provision empowering Government to ban forward contracts in certain commodities, because I do happen to know that there is no need at all for forward trading in bullion. It is not grown anywhere, the quantity is not augmented; business wants gold for very limited purposes, and there need be no speculation. If somebody had pointed out to me...

Mr. Deputy-Speaker: And import should also be regulated.

Shri T. T. Krishnamachari: That I had not taken power in this measure to ban forward contracts in certain commodities, I should have got up and pleaded guilty and even taken the punishment that was assigned to me, but, unfortunately, hon. Members have been less vigilant.

I do not want to bore the House any more in regard to these provisions. Much has been said on both sides, and, of course, my hon. friend Mr. Tripathi said something about planned economy, and ending forward contracts, and all that sort of thing. It is true that a planned

economy which is completely planned from beginning to end, does not need forward contracts. I agree. But, unfortunately, even the planned economy we are visualising leaves a private sector. The primary producer himself finds that a forward market is of some use. When I was in Bombay recently, it was the cotton growers who were very keen that there should be hedge trading because they said it gives them steadiness in price. It cannot be that the producers of these commodities which are cash crops are such nit-wits. They know the market very well. The villager is not a fool. I think Mr. More will.....

Shri S. S. More: I am very happy you have realised it.

Shri T. T. Krishnamachari: I can assure my hon. friend that my education is growing at a very fast pace now-a-days, and every day I get more and more educated in these matters.

Shri Gadgil: By friends like Mr. More who mislead.

Shri T. T. Krishnamachari: The point that I really wanted to make is this, that with a private sector, it was surprising to me how they could be benefited, and it was proved to me by the growers' representatives that hedge market would help them. So, unless the economy is completely planned from beginning to end, in which case the Government will dictate everything—that is what my hon. friend Mr. V. P. Nayar wants; then there is no need for these things, I agree but, so long as we have what we call a mixed economy—whatever the percentage of the mixture is; whether it is 95 per cent. water and five per cent. milk—it is rather difficult for us to say that it is not necessary. It seems to be necessary. People who are in the trade want it. Who am I to deny it to them?

May I once again say how grateful I am to the hon. Members who have participated in this discussion, and if I have not been able to provide an answer to all that they said, I might tell them that I shall certainly re-read the proceedings when they appear in print. As I have said, it is an initial measure, and we will probably have to amend it as time goes on and as we gather greater experience.

Pandit Thakur Das Bhargava spoke about certain aspects of the measure, and he had also tabled an amendment. Unfortunately my knowledge of Hindi is extremely inadequate,

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and my knowledge of Urdu is non-existent, and I could just see the trends because I know my hon. friend well, we have been together, and I know how his mind works. We must do something about it in course of time, but not yet. I certainly recognise what the hon. Member has said, that we have to control, and that the control must be more effective, and if he agreed with the minute of dissent tabled by my hon. friend Mr. C. C. Shah, I must say that I did not disagree with it; only, I felt that I was not equal to it at the moment. If we can distinguish between a wagering contract and a forward contract and if we could go into the intentions of it—of course, a lawyer knows how far one can go into the intentions of things—then we can perhaps put in a provision, if not exactly on the lines of what he wants, but at least on similar lines. But I may say, not yet. Let us start this measure, and as time goes on, we might be able to put the noose round tighter and hold these people in check. But at the moment I think this is about as far as I could possibly go.

Mr. Deputy-Speaker: The question is:

“That the Bill to provide for the regulation of certain matters relating to forward contracts, the prohibition of options in goods and for matters connected therewith, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Clause 2.—(Definitions)

Pandit Thakur Das Bhargava: I have tabled an amendment of which I gave notice only this morning, and I do not know whether I will be right in moving it. At the same time judging from what has fallen from the hon. Minister I think he is not going to accept it. Therefore, I would not ask for an opportunity from you for moving it, but with your permission I should like to say a word.

Mr. Deputy-Speaker: The hon. Member knows very well the conventions of the House.

Pandit Thakur Das Bhargava: I am not moving it.

Shri T. T. Krishnamachari: I would like to say that I am quite prepared to accept the proposition that I have got notice fairly early, but unfortunately I would not be able to accept the amendment with the same alac-

ridy that I would accept my hon. friend's right to move the amendment.

Pandit Thakur Das Bhargava: I know the rules and conventions of the House, and I am not asking for leave to move the amendment, when the hon. Minister is not in a position to accept it. But I only want to speak on the clause. I am very sorry that my hon. friend could not follow me, but could get only the general trends in my speech, and I am really sorry that I did not realise this at the time I was speaking.

Shri B. S. Murthy: Has that amendment been accepted?

Mr. Deputy-Speaker: The hon. Member has not been following the proceedings evidently. Any hon. Member has a right to speak on the clause, and while speaking on the clause, he may say that this clause must have included this or that, and so on. Incidentally he can refer to his amendment. He may neither move his amendment nor will it be placed before the House. But all the same he can say, the sponsors of the Bill must have included the wagering contract in the Bill, given a definition of such contracts, and also put in a provision for avoiding such wagering contracts.

Pandit Thakur Das Bhargava: As I submitted in my speech earlier, in my humble opinion, this Bill does not even realise the full effect of the evil which is rampant today in the country. It is true that this Bill is intended to regulate and control forward contracts. But forward contracts as such are not objected to by any person. It is only the evil part of it, the speculative element which ruins people, to which the people object. In so far as this Bill goes, it seeks to control such forward contracts in big cities by recognised associations by authorizing certain persons only to conduct the business of forward contracts or through them. But so far as the rest of the country is concerned, where such recognised associations are not there, nothing has been done by the Government to stop the speculative element of forward contracts. It is common knowledge that in the whole of the country, in small towns and also big towns and villages even, we find that the spirit of gambling is rampant. I wish that the Government could devise some means to prevent such practices. I realise it is very difficult to control such practices, but all the same, anything in a law of this nature that such contracts were regarded as wagering contracts or that such contracts were illegal, if not penal, would have had

the desired effect. When a provision in law can exist, even though it cannot be fully enforced, the moral effect of the existence of such a provision as this would act as a deterrent for many people. I therefore wished that the Government could, at least on this occasion when it is going to initiate a law of this kind, have come forward with a measure in which we could have some kind of a moral influence over people, and keep under restraint at least such people as want to evade the law. This could be implemented even by having a declaratory sort of provision that such contracts are wagering and therefore void. Even today according to section 30 of the Indian Contract Act, all wagering contracts are void. Previously when *tejimandi* etc. contracts went to courts, some of the courts held that these contracts as such were not valid, because they were regarded as wagering contracts. My humble submission is that any contract in which there is no intention of delivery is a kind of contract which the law should not countenance. If a provision like the one I have suggested were there in law, then it could have been regarded as an improvement upon the present position. But I know the Government thinks that there is administrative difficulty in having such a kind of control or in making a provision of this nature which cannot be enforced. But as I submitted, if a provision were there in law, the moral effect of it would be there, and a precept would be provided by way of a guide to the people in general.

In regard to these wagering contracts, I do not know, what will be the effect of section 30 of the Indian Contract Act, even after the present Bill is passed into law. In my humble opinion, so far as my interpretation of that section is concerned, section 30 will be of the same effect as now, even after the passing of this Bill into law. It may be that the courts may take this view, and they may conclude that section 30 shall continue to have full effect, and therefore such contracts, even such forward contracts, non-transferable specific delivery contracts, and even ready delivery contracts, in which this element of wagering is there, may be regarded as not good or void. If that is the interpretation, I think the people will come to know that it will not be good to enter into such contracts. I know that there is even among thieves a kind of morality, and many kinds of contracts do not come to courts. In those cases in which only the party that can not fulfil the contract or against whom the contract is not fulfilled has to go to the

courts, the courts regard these contracts as wagering. If that is the law, I think there is still some room for hope for people who think like me. But if the interpretation of the law is different, and if after the enactment of this law it may be argued that as a matter of fact since a specific law is there, the general law will not be effective, then I think this law will have gone to a certain extent in intensifying the evil rather than checking it. This is the aspect of the question that I wanted to urge upon the hon. Minister.

Shri T. T. Krishnamachari: I have said that this goes a little beyond the scope of the measure in the sense that this measure is regulatory. It is not altogether divorced from ethical principles, but it is not *per se* an ethical measure. The morality of wagering and all that does not come into it straightway. It comes incidentally. In any event, the orbit of this measure does not include such a wide scope as my hon. friend envisages. That has to be done by a different measure altogether.

Shri Gadgil: It is the first step.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 to 10 were added to the Bill.

Clause 11.- (*Power of recognised association etc.*).

Shri N. P. Nathwani (Sorath): I am not moving my amendment, Sir, but I want to say a word on sub-clause (3).

Mr. Deputy-Speaker: Clause 11(3)? Yes.

Shri N. P. Nathwani: The sub-clause provides that an association may specify the bye-laws the contravention of which shall make a contract entered into otherwise than in accordance with the bye-laws void. Now, this is left to their discretion—to specify or not to specify—whereas I understand that the intention is that the association must specify certain bye-laws which are considered as of major importance and which are considered vital from the point of view of regulating the business. For instance, there are bye-laws which prescribe whether certain contracts shall be made orally or in writing; there are bye-laws which prescribe a

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certain standard form of contract which must be complied with; and there are certain bye-laws which govern the clearing house machinery. All these bye-laws are considered as of major importance. But all the bye-laws of an association should not be given equal importance and the breach of any bye-law which is to be considered of trivial or insignificant importance should not render the contract void. That is why it has been left to the association to specify only certain bye-laws, the contravention of which would entail the consequence of rendering the contract void. But it cannot be doubted that the association has got to specify certain bye-laws as of major importance. Therefore, instead of leaving it to the option of the association, it should have been provided that the association shall specify the bye-laws which are of such major importance. I say this because I know of one instance under the Bombay Act. There is a similar provision in the Bombay Act of 1947, but I know that the association, which is a very leading association, has not so far specified the bye-laws which are considered of importance, and the contravention of any one of which would render the contract illegal or void, with the result that the members are not bound to comply with the bye-laws regarding the making of contracts or the clearing rules. That is why I think that if the intention is that the association must specify the rules, then sub-clause (3) should have been suitably amended as to make compliance of certain rules necessary on the part of the members. I hope the hon. Minister will consider this aspect of the matter and deal with it in a manner which he considers fit and proper.

Mr. Deputy-Speaker: Is not this covered by clause 12 where power is given to the Central Government to make or amend bye-laws?

Shri T. T. Krishnamachari: That is true.

Shri N. P. Nathwani: My contention was only this, that if specification of certain bye-laws is to be made obligatory, then why leave it to the Government or to the Commission to intervene? Why should it not be provided in the Act itself that they shall be specified? That is all.

Mr. Deputy-Speaker: They shall be specified? The difficulty arises because there are hundreds of bye-laws of varying importance. That is

impossible in the working of the measure.

Shri N. P. Nathwani: It is for the associations to specify. The association may make a hundred bye-laws. It may consider some of them of such importance that contravention thereof would render the contract void, whereas if other bye-laws are infringed, they would only invite penalty or some disciplinary action on the part of the association. These are the two categories of bye-laws.

Shri T. T. Krishnamachari: The position is this. My hon. friend sent this amendment yesterday and I sent it to my legal adviser, and the advice that I have got is that it is not necessary. In any event, if we say: "The bye-laws made under this section shall" instead of "may"—if that is what the hon. Member wants—the association may specify one or two bye-laws and may not specify about seven or eight of them which are very necessary. So the obligation of the association to specify will be discharged if it specifies only one.

Mr. Deputy-Speaker: A minor one.

Shri T. T. Krishnamachari: A minor one. So it does not mean that my hon. friend is getting anything very substantial by putting an obligation on the association, 'Please specify'. It may say 'yes' and specify one, and the obligation is discharged. And as the Chair very rightly pointed, it may be a minor one. In fact, I might tell the House that it was suggested to us that we should put a provision saying that the Government will make draft bye-laws and send them out. Well, I do not think a provision like that is necessary. We can send draft bye-laws to these associations, unless it be that a particular trade finds that changes have to be made. But, as the Chair very rightly pointed out, clause 12 gives the power to Government that after all the Government need not accept these bye-laws. So I think what my hon. friend contemplates is very correct in that very limited sphere, but in actual application it does not matter whether we say 'shall' or 'may'. It can equally be ignored by the association, unless the Central Government is going to be vigilant. The whole thing rests on the Forward Markets Commission and the operation of clause 12 not on putting an obligation on the association which can easily be avoided by specifying a minor bye-law the contravention of which will merit a certain amount of punishment. So I think in the present context it is not necessary and, therefore, the hon. Member would forgive me and I would rather not accept it.

Mr. Deputy-Speaker: He has not moved it.

Shri N. P. Nathwani: I have not moved it.

Mr. Deputy-Speaker: The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clauses 12 to 17 were added to the Bill.

Clause 18.—(Special provisions etc.)

Shri N. C. Chatterjee (Hooghly): I beg to move:

For clause 18, substitute:

"18. Chapters III and IV to apply to non-transferable specific delivery contracts only in certain cases.—(1) Where a notification under section 15 has been issued in respect of any goods or class of goods, the Central Government shall, by a like notification, define the area in which a recognised association, may regulate and control non-transferable specific delivery contracts in respect of such goods or class of goods and the provisions of this Chapter and of Chapter III shall apply to non-transferable specific delivery contracts only in such areas and only in respect of such goods or class of goods.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area to which the provisions of this Chapter and of Chapter III do not apply, it may, by notification in the Official Gazette, declare that all or any of the provisions of the said Chapters shall apply to non-transferable specific delivery contracts, in such area and in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply."

I am still pleading for the restoration of the original clause 18 of the Bill and it means practically that the recommendation of the Select Committee on the previous Bill of 1950 should be accepted by the House. When there is a common form of contract and an association regulating the same, if it is felt that by roping in those non-transferable specific

delivery contracts any hardship would be created for the small traders, then, I submit that immediately you allow these associations to be recognised and to regulate them, other difficulties will arise. Generally, in transactions between members of an Exchange or association there is scope for speculation and undesirable trading. Even small traders in any important city will have to be at the mercy of the big powerful industrialists who will invariably be members of the Exchange and when the Exchange would regulate, the effect will be that the smaller trader would be nowhere. He will have to go to the big trader or the influential merchant who will be able to manage the association and thereby the purpose of this Bill would be defeated. I have already made my submissions on clause 18. I am still pleading that the decision of the old Select Committee was right and proper and nothing has been really put forward which should induce this Parliament to go back on that decision and the original clause as introduced by the hon. Minister should stand. I know the fate of my amendment because the Minister has already declared that he would not be in a position to accept it. I am still hoping and wishing and praying that better judgment will prevail and the decision of the Committee over which you presided, Sir, will be accepted.

Mr. Deputy-Speaker: Amendment moved:

For clause 18, substitute:

"18. Chapters III and IV to apply to non-transferable specific delivery contracts only in certain cases.—(1) Where a notification under section 15 has been issued in respect of any goods or class of goods, the Central Government shall, by a like notification, define the area in which a recognised association may regulate and control non-transferable specific delivery contracts in respect of such goods or class of goods and the provisions of this Chapter and of Chapter III shall apply to non-transferable specific delivery contracts only in such areas and only in respect of such goods or class of goods.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area to which the provisions of this Chapter and of Chapter III do not apply, it may, by notification in

[Mr. Deputy-Speaker]

the Official Gazette, declare that all or any of the provisions of the said Chapters shall apply to non-transferable specific delivery contracts, in such area and in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply."

Shri Punnose: As the provision now stands, non-transferable specific delivery contracts are not included. Mr. Chatterjee would like them to be included in the scope of the Bill. I do not find my way to accept that change. The other day, when this Bill was discussed here, my friend Shri V. P. Nayar was stating that we oppose the principle of the Bill itself. I believe that has been to a certain extent misunderstood and distorted also. Shri A. M. Thomas was telling today that forward contracts are, to a certain extent, very much necessary in the interests of our agriculturists and producers etc. And some people seem to think that forward contracts and capitalism are inseparable and a certain amount of speculation is absolutely necessary.

Well, it may appear strange that we who oppose the very principle of the Bill should support the exclusion of non-transferable specific delivery contracts. The position is that capitalism, as we have known in the past, is always based on speculation. Speculation, this sort of bull and bear dealing with the market, creation of artificial scarcity and all that have been there throughout the history of capitalism. But those were days of *laissez faire*. Let us remember that our Government claim that they are out to build up a welfare State and not a capitalist State. I suppose they claim that they are not going to be led by those blind forces that rule the capitalist economy but that they are going to have planning. This morning we were discussing about labour productivity and there also they intend bringing about a plan. In the Five Year Plan it is clearly said that wages shall not be increased for the next five years, because that will lead to inflation. Therefore, if you stand by planning, then the correct thing to be done is that this sort of speculation should be completely rooted out, because otherwise market will be dominated by speculation and all your planning will become meaningless. Your plans will be converted into thin vapour. There is the more dangerous claim of those saying that our peasants and farmers are asking

for speculation. As a matter of fact, today, to a certain extent, some amount of help is being received by our farmers, agriculturists etc. But can this Government arrange credit facilities for our agriculturists? That is the question. When our peasants go in for these forward contracts, they do so at great cost.

Two months back, there was a conference of arecanut growers in Cochin, in the constituency from which Mr. Iyyunni is returned—I also attended that conference. One of their very important demands was that this sort of forward contract in that particular commodity should be stopped because when once this money is received by the poor peasant, then all sorts of irregularities and anomalies come in, in the trade, even in measurements, and heights, because our peasant being poor is placed at the mercy of the trader. Advancing money on forward contracts has become a sort of money lending with all its bad features. Therefore, to argue that forward contract is helpful to our agriculturists or the ordinary peasants is wrong. It is like the blackmarketeer claiming that when there was a great scarcity of food, he acted as the saviour of the people because he was giving them food although at a very high cost.

[PANDIT THAKUR DAS BHARGAVA in the Chair]

Therefore, the argument in favour of forward contract that it is helpful to the peasants is incorrect and misleading. If the professions of the Government regarding planned economy are true, then they must supply long term and short term credit to the peasants. They should start agriculturists' cooperative and marketing societies. Through them they should supply the raw materials to the mills and also arrange the marketing of the finished goods produced by the mills.

You will find that most of this forward contract and gambling is prevalent in the export trade where foreign interests are strongly entrenched. By passing this Bill, I do not hope for a moment that we can regulate this forward contract. You have heard from this side of the House that there are a hundred and one ways through which one can jump over this fence. These sections and sub-sections will not prevent the gamblers and speculators from doing havoc to our people. What we on these benches complain of is that the provisions of this measure are not sufficiently strong to prevent gambling. But we do not want the inclusion of the non-transferable

specific delivery contract because as a result of this Bill what this House is going to do is to legalise monopolies. There are monopolists even now, but through this Bill we are going to give them legal status. Then there is the question of the small trader, the indigenous trader who, I admit, is also making his own contribution to the mischief. But we do not say that these giant monopolies should be given the uncontested sway over the situation. Therefore, we support the exclusion of the non-transferable specific delivery contract. At the same time, we would state in very unmistakable language that we do not believe that even if this Bill is passed as it is, it will in any way prevent gambling or speculation, or that it is going to be helpful to the peasant or to the broad masses of our people. We do not even believe that the exclusion of the non-transferable specific delivery contracts will prevent the domination of the market by the monopolies. If there is to be any sort of certainty in our production and distribution and if there is to be any planning in our economic life, what is demanded is that gambling and speculation and all the rest of it should be banned completely.

Shri Heda (Nizamabad): Before I express my views on some aspects of clause 18, I would like to say a word about what the previous speaker has said. So far as their particular type of economy is concerned, it is quite true that there is no speculation, and as I said in my earlier speech, even in the free or mixed economy which we have chosen for our country the less speculation there is the better it will be for us. But in this economy some speculation there is bound to be. But the primary duty of Government should be to control and regulate it, and that is exactly why this Bill has been brought forward.

My hon. friend stated that in spite of all this, he did not want to include the non-transferable specific delivery contracts. In one breath he says that the Government is not extending its full control as it should and in the other he says that Government should not extend its control to the so-called non-transferable specific delivery contracts.

Now, I will only deal with clause 18 (1). As I said earlier during this debate, the difference between the original clause 18 and the present clause 18 is only a difference of approach. There the clause contained the control and the proviso the exception; here the clause contains no control but the proviso refers to cases where we may control. The proviso (a) sub-clause

(1) serves our purpose admirably. It reads thus:

"Provided that no person shall organise or assist in organising or be a member of any association in India (other than a recognised association) which provides facilities for the performance of any non-transferable specific delivery contract by any party thereto without having to make or to receive actual delivery to or from the other party to the contract or to or from any other party named in the contract."

I would like here to refer to two things. The words "in India" are ambiguous and I would support the amendment given notice of by my hon. friend Mr. Venkataraman in this connection. It makes the position very clear. What is the specific intention of Government? Take Bombay. Where the association is recognised—whatever its area may be—Bombay City or Greater Bombay—for transferable specific delivery contracts and their regulation and control, should we allow any other association also to work in the same area for the non-transferable specific delivery contracts? If we desire it, then let us make the wording very clear. If we do not desire it, even then let us make it clear. I want the hon. Minister to read the last three lines carefully: "by any party thereto without having to make or to receive actual delivery to or from the other party." This means there is a possibility of an organisation to give and take delivery. My apprehension is that some association will come forward and say, "Under our rules delivery is to be given and taken" and therefore it will start functioning in spite of this Bill and speculation will go on. I will give an example. Suppose A has sold some goods to B and the date of delivery is after a month or two, and in the meantime again B sells to A. Naturally there is no question of giving and taking delivery. The matter is settled between themselves. Take another example. Suppose A has sold to B and B has sold to C and C again has sold to A. Where is the question of giving and taking delivery? They will have to settle the matter ultimately between themselves. This gives rise to an apprehension in my mind that the speculation will not be stopped. The reason why I want to curb speculation is because I do not want that the prices of commodities in the course of a year should vary to a very great extent as they do now. I would not mind it in the present context when the money market is tight if the prices vary between 15 per cent.

[Shri Heda]

and 20 per cent. but if they vary between 25 per cent. and 60 per cent. as they have been doing during the last few years, then we will be harming the producer and the grower. Therefore, my request is that if it is the Government's intention that there should be another association which would look after the regulation and control of non-transferable specific delivery contracts, then let it be made very clear and let it be specifically stated. If that is not their intention, I request the hon. Minister to reconsider the matter and if possible delete the last three lines of the proviso to clause (1) beginning from "by any party" and ending with the words "named in the contract". If Mr. Venkataraman's amendment is accepted the meaning of this proviso will become clear and the proviso with sub-clauses (2) and (3) will read cogently and I am quite certain that to a great extent it will serve the purpose of original clause 18.

4 P.M.

Shri Raghunir Sahai (Etah Distt.—North East cum Budaun Distt.—East): I rise to oppose the amendment that has been moved by my hon. friend Mr N. C. Chatterjee. During the last three days this Bill has been discussed thread-bare, in the course of which several criticisms were levelled against clause 18. In fact, if we see the whole Bill we will find that it closely follows the original Bill which was introduced by the hon. Minister during the last session of Parliament, excepting for a big change in clause 18. Mr Chatterjee's amendment amounts to this that the original clause as it appeared in the previous Bill when it was introduced in the last session, should be restored.

Now, Sir, with your permission I would like to dwell on this point as to why the present Select Committee was obliged to make this big change. In the Bill introduced in August last in clause 18 it was provided that Chapter III and Chapter IV would be made applicable to non-transferable specific delivery contracts in certain areas. In the Select Committee this clause has undergone a change, inasmuch as it has been provided that nothing contained in Chapter III or Chapter IV shall apply to non-transferable specific delivery contracts for the sale or purchase of any goods.

Now, everybody in this House knows that Chapter III relates to recognised associations and Chapter IV relates to forward contracts and option in goods. It means that non-transferable specific delivery contracts can be entered into without forming any recognised as-

sociations. The question which at this moment arises is: why this change at all? Now it is a fact that the Bill of 1950 did contain a clause that these two Chapters, namely III and IV, should not apply to non-transferable specific delivery contracts but in the Select Committee then formed to consider the Bill, it underwent a change and it was provided that these two Chapters should apply to non-transferable specific delivery contracts as well. This Bill which was introduced in the last session was based on the recommendations of that Select Committee. But the present Select Committee did make this change that the non-transferable specific delivery contracts were put aside from the operation of Chapters III and IV. The only factor that guided the present Select Committee was the opinion of the Expert Committee which was referred to by my hon. friend from Bombay in the course of his speech before lunch.

It has been said more than once in this House—including the hon. Minister himself—that most of us are laymen and this is very technical subject. The Select Committee of this Bill was guided by the opinion of the Expert Committee because in a matter like this it was better to be guided by experts, and to be wrong with them than to be right with laymen. I suppose, though Mr Chatterjee is a very distinguished lawyer, he is a layman so far as forward contracts are concerned. As many of the Members of this House have said repeatedly we know very little about this intricate subject.

Moreover, why should there be so much of apprehension about this change? The Government has taken full powers in its hands to remedy any error or meet any situation which may arise, because if we look to the provisions of this clause as it is has been ended by the present Select Committee, we shall find that there is sub-clause (3) to clause 18 which runs thus:

"(3) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area, it may, by notification in the Official Gazette, declare that all or any of the provisions of Chapters III and IV shall apply to such class or classes of non-transferable specific delivery contracts in such area and in respect of such goods or class

of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply."

Had this sub-clause not been there, there was reason for some apprehension, but since it was so prominently included in this clause there should be no ground for any misapprehension whatsoever. I submit that the clause should be retained as such. Moreover, this Bill has not been claimed to be a very comprehensive Bill on the subject of forward contracts. It has been claimed to be only an enabling measure, as a first step in the right direction. Let us watch the working of this Act, and after sufficient experience we can come to the conclusion whether any amendments are necessary. So, my submission is that the clause should be retained as it is and I oppose the amendment moved to this.

Shri T. T. Krishnamachari: I think it is hardly necessary for me to speak again, because we seemed to be doing nothing else for the past two days except to discuss clause 18. It is not in any spirit of obstinacy that I have to oppose the amendment of my hon. friend Mr. Chatterjee. From the numerous arguments that have been put forward in this House, it would be clear that clause 18 should stay as it is. In any event, the purpose that he has in mind will certainly be served by invoking the provisions of sub-clause (3) of clause 18. There seems to be a misconception that if clause 18 is changed in the manner the hon. Member wants to change it, the smaller people's interests will be safeguarded. I am afraid just the reverse may happen. The smaller people that enter into what you call specific delivery contracts, do it for their business and it is the bigger people who are likely to speculate. Wherever possible, in areas where this type of contracts are not likely to be misused, we could leave them free. Then, I think the small man will be protected and he will be able to carry on his business in the normal way. Therefore, I am afraid, I would not be able to accept the amendment moved by my hon. friend Mr. Chatterjee.

In regard to the remarks that fell from my hon. friend Mr. Heda, one of them is correct. I thought I would refer to it when Mr. Venkataraman moved his amendment. While technically it is quite correct to say that no organisation shall be organised all over India in respect of transactions covering non-transferable specific delivery contracts, it

seems somewhat anomalous when clause 15 will specify the areas in which the big fish will be roped in, namely the people who deal in forward contracts and transferable specific delivery contracts. When they will be roped in only by an express declaration or notification under clause 15, why should we rope in all people who deal in non-transferable specific delivery contracts and perhaps have a club or an association to deal with them? So I think that the point made by Mr. Heda is quite correct that the area in which the proviso will operate must be co-terminus with the area in which a notification under clause 15 will also operate. That amendment I think could be accepted.

But in regard to the last three words, the trouble about this language is that the lawyer has his own way of putting it and sometimes we people find it a little difficult actually to accept the import of it. But I can assure my hon. friend that it does not seek to allow any escape from the grasp of this proviso and it means nothing more than what it says, and there is no other intention in those words. It will operate against anybody dealing in non-transferable specific delivery contracts as an association, anybody organised as a group. As it says, if non-transferable specific delivery contracts change a few hands in a casual way without there being any association, naturally there is no intention and no idea really that we should go and penalise those people. But if there is some kind of place of business, with or without a board, a table, a clerk, some records kept and so on, in effect it will be a bucket shop. Anybody who organises a bucket shop for dealing with this type of contracts in a place where clause 15 is in operation, well, he will come within the mischief of the law. That is the intention.

Therefore, I am very grateful to the hon. Member and to Mr. Venkataraman for making the application of the proviso and the application of any notification under clause 15 co-terminus. And that is quite right. That is a very useful amendment. Otherwise, there is nothing, I think, to fear in regard to the wording of this particular proviso.

Mr. Chairman: The question is:
For clause 18, substitute:

"18. Chapters III and IV to apply to non-transferable specific delivery contracts only in certain cases.—
(1) Where a notification under section 15 has been issued in respect

[Mr. Chairman]

of any goods or class of goods, the Central Government shall, by a like notification, define the area in which a recognised association may regulate and control non-transferable specific delivery contracts in respect of such goods or class of goods and the provisions of this Chapter and of Chapter III shall apply to non-transferable specific delivery contracts only in such areas and only in respect of such goods or class of goods.

(2) Notwithstanding anything contained in sub-section (1), if the Central Government is of opinion that in the interest of the trade or in the public interest it is expedient to regulate and control non-transferable specific delivery contracts in any area to which the provisions of this Chapter and of Chapter III do not apply, it may, by notification in the Official Gazette, declare that all or any of the provisions of the said Chapters shall apply to non-transferable specific delivery contracts, in such area and in respect of such goods or class of goods as may be specified in the notification, and may also specify the manner in which and the extent to which all or any of the said provisions shall so apply."

The motion was negatived.

Shri Venkatarman (Tanjore): I beg to move:

In page 20, line 46, for "in India" substitute "in any area to which the provisions of section 15 have been made applicable".

I find myself in a very happy position in which the hon. Minister has advanced all the arguments that I wanted to make in favour of this amendment. Since he is accepting it I do not want to make a speech on this.

Mr. Chairman: Amendment moved:

In page 20, line 46, for "in India" substitute "in any area to which the provisions of section 15 have been made applicable".

Shri Barman (North Bengal—Reserved—Sch. Castes): I think the House will excuse me if I ask for some clarification from the hon. Minister. I think there is some confusion. I would first of all ask the hon. Minister whether by acceptance of this amendment it is meant that only in the case of persons who are outside the recognised association this restriction will apply, that is they will not be allowed to deal even in non-transferable specific delivery contracts, but in the case of

members of a recognised association they would by this amendment be allowed to deal in non-transferable specific delivery contracts? If they are not, is it meant that people who are outside the organisation are allowed to make such kind of contracts? I am rather confused. By clause 18 sub-clause (1) without the proviso, it is meant that even in a notified area any person, whether a member of a recognised association or not, is exempted from the operation of Chapters III and IV, that is, he is free to deal in non-transferable specific delivery contracts as he likes. And then the proviso is added afterwards. Does the proviso qualify the main clause.....

Shri T. T. Krishnamachari: Always. All provisos do.

Shri Barman: So, after this amendment, is it meant that people who are outside the recognised association within the notified area are precluded from dealing in non-transferable specific delivery contracts unless they act through the recognised association, and that it does not apply to such people outside the notified area? The language is rather confusing.

Mr. Chairman: May I also enquire whether the purport of the amendment is that in respect of areas which will be outside the notified area under clause 15, the organisation of any association of this nature will be allowable?

Shri T. T. Krishnamachari: So far as this particular amendment is concerned, it merely says that the organisation of an association for dealing with non-transferable specific delivery contracts, from being wrong all over India, will be wrong only in those areas which are specified in a notification issued under clause 15. If that is understood, the alteration merely circumscribes the scope of the proviso, and nothing more: instead of all over India, it will be Bombay, Ahmedabad, Ujjain, Hapur, Lucknow, Calcutta, Nagpur, Madras, Alleppey, Cochin and so on. These are the areas where clause 15 will probably operate. This proviso will also operate in those areas. That is fairly clear.

So far as the purport of the proviso, as it stands now without the amendment, is concerned it will mean this: any association which deals in forward contracts and transferable specific delivery contracts outside the area covered by a notification or notifications issued under clause 15, will be out of the scope of this particular measure. The provision in regard to

bye-laws, conduct of the association, the punishment that the association will draw upon itself for any infringement, all that will not apply; it can apply only if there is a notification. What would happen if the proviso is left without Mr. Venkataraman's amendment is that while associations could be formed anywhere—of course subject to the doubtful legality of their transactions—and they could carry on this sort of *satta* or legitimate trading or contracts, they could not do it in regard to what is practically a peccadillo, namely non-transferable specific delivery contracts, which in many cases happens to be their normal type of business. What Mr. Venkataraman has done is to show that we have slightly missed the main point of the scope of the Bill when we put the words 'in India' and he has sought to correct it.

Mr. Barman says there is a little confusion. I do not think there is any confusion at all. You control associations dealing in transferable specific delivery contracts and other types of forward contracts only when you issue a notification under clause 15. Since I say that it will come within the purview of clause 15, then there can be no association which is unrecognised to deal with any transferable specific delivery contracts or non-transferable specific delivery contracts. Other types of forward contracts, I have to put them in another notification under sub-clause (3) of clause 18 to bring in all non-transferable specific delivery contracts. Supposing I do not do it, then I prevent anybody from forming an association because non-transferable specific delivery contracts are outside the scope of clause 15. By means of declaration under clause 18(1) anybody is permitted to deal with them but what I am refusing permission to is that no association shall be formed for that purpose. As I said before that association will be in the form of a bucket shop. I do not want that thing to happen. Mr. Barman asks whether normally a recognised association, whether or not we assign to them the right to deal with non-transferable specific delivery contracts under a notification under clause 18(3), can deal with any non-transferable specific delivery contracts. That is where we make a distinction. A recognised association can, but there is no obligation on the part of the people who enter on non-transferable specific delivery contracts to deal through an association. That obligation is not there but the permission is there. That is why we have put in those words in brackets "not being a recognised association".

The point really is that Mr. Venkataraman's amendment circumscribes the scope and makes it co-terminus with the scope of clause 18 and nothing more. So far as the ability of a recognised association dealing in non-transferable specific delivery contracts even without a notification under clause 18(3) is concerned, it is permitted to do it and that enabling provision is there by the words "not being a recognised association". I would like to accept, if the House permits, the amendment of Shri Venkataraman.

Mr. Chairman: The question is:

In page 20, line 46, for "in India" substitute "in any area to which the provisions of section 15 have been made applicable".

The motion was adopted.

Mr. Chairman: The question is:

"That clause 18, as amended, stand part of the Bill".

The motion was adopted.

Clause 18, as amended, was added to the Bill.

Clause 19 was added to the Bill.

Clause 20. (Penalty etc.)

Mr. Chairman: May I enquire from the Minister what is the position with regard to the words "on conviction"? They appear twice, in lines 39 and 43 and seem to be redundant.

Shri T. T. Krishnamachari: On conviction be punished.

Mr. Chairman: A person who behaves like this shall be punished.

Shri T. T. Krishnamachari: That is being redundant. There cannot be punishment without conviction. Anyway I must say, being a layman, I am guided in this matter by the Legal Adviser.

Mr. Chairman: The question is:

"That clause 20 stand part of the Bill."

The motion was adopted.

Clause 20 was added to the Bill.

Clauses 21 to 28 were added to the Bill.

Clause 1 was added to the Bill.

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

Shri T. T. Krishnamachari: I beg to move:

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

Mr. Chairman: Motion moved:

"That the Bill as amended be passed."

Shri M. S. Gurupadaswamy (Mysore): The hon. Minister of Commerce

[Shri M. S. Gurupadaswamy] and Industry in his reply began with rhetoric but ended in abuse. He said that some of the Members who criticised the Bill, used vituperative language. He himself ran into that and said that one Member here did not depend upon himself for his facts but depended upon second hand information. It was rather undignified. I am sorry that such a remark has come from his mouth. I said that the Minister was rhetorical in his speech and whenever he becomes rhetorical I always feel that I should quote one or two anecdotes to counterbalance his rhetoric.

Shri T. T. Krishnamachari: Needs to become 'anecdotty'.

Shri M. S. Gurupadaswamy: It is better than being rhetorical.

Shri T. T. Krishnamachari: Nothing wrong. I have read rhetoric in my time.

Shri M. S. Gurupadaswamy: Once three friends, a lawyer, an engineer and a doctor came together. A quarrel arose among them as to who was supreme, more important than the others. Then all the three agreed that each should make out a case for his supremacy. The engineer said, in the beginning of the world, there was only chaos prevailing, and the engineer brought cosmos out of chaos and so the engineer is supreme. Then, the doctor said, "I am responsible for the continuation of the world and for the health of the human race and so I am supreme". Then at last the lawyer friend said.....

Shri A. M. Thomas: Was this not stated here once?

Shri M. S. Gurupadaswamy: I did not; that was another. You are suffering from forgetfulness.

The lawyer friend said "who created chaos in the world? Without chaos you people would not have come forward and worked; I was responsible for chaos and so I am supreme." The story goes that the lawyer won.

Dr. Lanka Sundaram: Are you not?

Shri M. S. Gurupadaswamy: Now, the position of the lawyer is taken by the speculator and the speculator in India has created chronic confusion in the money market and in the economic field. So these speculators should not only be controlled, but eliminated from the body politic. The present Bill tries to control the speculative proclivities of merchants. It is good so far as it goes. I support the Bill; but, my support is a qualified support. I feel that it does not go far enough; it is not very radical. If the Commerce

Minister had brought a Bill to eliminate speculation from the Indian soil completely, then, it would have been more welcome to all the sections of the House.

I have got great misgivings about how far this Bill can be workable or can succeed in actual working. You are aware, Sir, as an experienced man and you are also a lawyer yourself, that though there is the income-tax law in force, many people escape the provisions of that law. My hon. friend Mr. T. T. Krishnamachari was referring to bucket shops. Are you not seeing daily how many people are betting illegally and how many bucket shops are existing? Have the Government succeeded in curbing down this bucket shop business? Have Government controlled the speculation that is going on in imports and exports? They have failed miserably. We have got the latest instance of food controls which have not yet succeeded at all. So, by looking at all these past experiences, I feel rather doubtful whether the Commerce Ministry will succeed in implementing this limited Bill. I call this Bill as limited because it tries only to regulate speculative enterprises; it tries to interfere within limits. Even to that extent, I am doubtful whether Government as it is constituted today will succeed. We have to wait for the results. Any way, till now I was only witnessing that speculators were controlling the Government. But now the Government is trying to control the speculators. Each is controlling the other. In this mutual controlling both of them may drown: that is my fear. That should not happen. Government should be more able not only to control them but ultimately to eliminate all speculative enterprises in the land.

The party to which I belong, the Praja Socialist Party, visualises a perfectly planned economy where we do not find any room for any sort of speculation. I am sure the common man today welcomes this planned economy and he is not very much enamoured of the mixed economy or mixed up economy that the present Government is following. And, planned economy does not in any way give room for anybody to exploit the common man for his own monetary benefit. Here, the Bill is based on the assumption that speculation does exist, that it is normal and it is necessary. Somebody said—and Mr. Banerji was quoting extracts from some books on American economics—that speculative business has got its own social benefits. It is just like saying that even prostitution has got some social benefits. I am

sorry that this speculative business is sought to be justified by quotations and by analogies. I must tell the House straightway that this speculative enterprise is foreign to us. It has been an exotic growth and if you allow it to grow for long, the vicious circle of trade cycle which is hampering the economics of Western countries may also hit us hard. You might be aware that speculation is mostly responsible for depression, recession and the boom—I hope the hon. Commerce Minister will agree with this—and unless speculation is completely rooted out, there is no future for India. And if you allow the futures market to thrive, the future of India will be doomed. So, while advocating complete elimination of speculative business in the land, I give my qualified support to this Bill. It is a step in the right direction, I must say, and if the hon. Minister implements the Act honestly and thoroughly and if he does not allow anybody to escape from the provisions of the Act, to that extent, he will receive our praise and admiration. And after the success of this measure he may give more thought to the problem of complete elimination of speculation itself.

There was lot of controversy about clause 18 and the proviso to that clause. So far as I am concerned, I endorse the provision of the Bill as it stands now. The small traders should be protected against big traders. Non-transferable specific delivery contracts are relatively genuine. And there is little room for misuse in these contracts. They are almost in the same position as ready delivery contracts. So, I do not see any reason why they should not be left out from the purview of the Bill as far as possible. If these non-transferable specific delivery contracts are also brought within the ambit of this Bill, then the small businessmen may have to undergo lot of difficulties.

Mr. Chairman: I do not want to interfere with the arguments of the hon. Member, but I would remind him that at this stage, he can only refer to the general character of the Bill and give his arguments either in support or against it. At this stage, when we have already finished clause 18, it will not be right to refer to the arguments in favour of or in rejection of or against clause 18 in details.

Shri M. S. Gurupadaswamy: I referred to it only in a general way. That is all. I will take care not to mention the clause in question hereafter.

As I was saying, the small fish should be protected against the big fish. The present Government is wedded to capitalistic economy—they may call it

mixed economy, but it is still capitalistic—and in a capitalist structure, the only way of meeting the situation is by protecting the small man against the exploitation of the big and that is justice according to the capitalist order. So, I commend this provision of the Bill. I do not see any reason in the argument that this should be included. In my opinion the argument that non-transferable specific delivery contracts should be brought within the ambit of this Bill does not sound so well and reasonable. The Commerce Minister wants to give a fair trial to non-transferable specific delivery contracts, and if they are misused, then there is a provision in the Bill which can be applied, and the situation can be brought under control.

So, in a limited way, the Bill is good. So, I give my limited support, and hope for a better and more radical Bill in future.

Shri Barman: With apology to the House, I would again point out to the hon. Minister that to my mind clause 18, as amended is rather incongruous in this sense, that first of all by the main clause we say that non-transferable specific delivery contracts...

Mr. Chairman: I am afraid I have to intervene. Clause 18 is now closed. We cannot go into the merits of clause 18 now. Only general arguments for rejection or in support of the Bill can be given at this stage. The hon. Member is referring to the details of clause 18.

Shri Barman: I am not really referring to the details, but only mentioning that this whole clause, even after amendment, is not clear, and is rather incongruous. I would submit simply that by sub-clause (1) we have excluded non-transferable specific delivery contracts, but by the proviso, even after amendment, it means that those persons who want to deal in non-transferable specific delivery contracts even outside an organisation, will have to be a member of the organisation. And Chapters III and IV are excluded at the very beginning by the very main clause. If at a subsequent time or any time we want to rope in others also who are outside the organisation and apply this Bill even in the case of non-transferable specific delivery contracts, sub-clause (3) of clause 18 is quite sufficient for the purpose. I hope that the matter will be further clarified by the hon. Minister.

Mr. Chairman: The question is:

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

The motion was adopted.