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AGENDA.

Agenda for the second session of the Bombay Legislative Council,
commencing at the Council Hall, Bombay, on Saturday,
the 5th March 1938, at 2 p.m.

- I. OATH OR AFFIRMATION OF ALLEGIANCE TO THE CROWN.
- II. NOMINATION OF PANEL OF CHAIRMEN BY THE PRESIDENT.
- III. QUESTIONS AND ANSWERS.
- IV. PRESENTATION OF THE BUDGET FOR THE YEAR 1938-39.
- V. GENERAL DISCUSSION OF THE BUDGET.
- VI. PRESENTATION OF SUPPLEMENTARY STATEMENT OF EXPENDITURE FOR 1937-38.
- VII. GOVERNMENT BILLS—
 - (1) L. A. Bill No. III of 1938 (An Act to provide for the release on probation of offenders)—*Second and Third readings.*
- VIII. OTHER GOVERNMENT BUSINESS.
- IX. CONSIDERATION OF RULES OF THE CHAMBER.
- X. NON-OFFICIAL BILLS—
 - (1) L. C. Bill No. I of 1938 (A Bill to regulate rents of premises in the Bombay Presidency)—*First reading*—Mr. S. C. Joshi, M.L.C.
 - (2) L. C. Bill No. II of 1938 (A Bill to provide for the grant of annual leave with pay to certain classes of workmen by their employers)—*First reading*—Mr. S. C. Joshi, M.L.C.
 - (3) A Bill to amend the Presidency Towns Insolvency Act III of 1909 in its application to the Province of Bombay—*Motion for leave to introduce the Bill*—Mr. S. H. Shah, M.L.C.

XI. DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST—

(RESOLUTIONS CONSIDERATION OF WHICH WAS ADJOURNED
AT THE LAST SESSION.)

Resolution by Mr. R. M. Gandhi, M.L.C.

1. (a) This Council recommends to Government to instruct all Departments, semi-Government bodies and Municipal Corporations and Municipalities to have inserted in all contracts and agreements for the supply of stores, materials, machinery or services a clause to the effect that the said suppliers shall afford every facility to Indian apprentices for practical training in factories, workshops or offices owned, managed or controlled and patronised by non-Indian suppliers concerned, so as to enable such Indian apprentices to acquire full knowledge of the technique and work of their trade, industry, calling and profession ;

(b) This Council further recommends to Government to forward the opinion of this Council to the Governor-General-in-Council and to His Majesty's Government with a request effectively to implement this Resolution.

Resolution by Mr. B. N. Karanjia, M.L.C.

1. In view of the fact that provisions regarding midwives in the Bombay Nurses, Midwives and Health Visitors Registration Act of 1935 are inadequate to meet the conditions of the City of Bombay, this Council recommends to Government to introduce at an early date necessary amendments to the said Act to provide for the control of the profession of midwives by the Municipal Corporation and for measures leading to the prohibition of such a profession by unqualified women with the necessary safeguards to protect the latter class in practice at present and with the required provisions to provide practical instruction to indigenous *dais* and their registration until such time as the trained and registered profession of midwives is financially accessible to all classes of people.

(NEW RESOLUTIONS*)

Resolution by Professor Sohrab R. Darar, M.L.C.

1. This Council recommends to Government to take immediate steps to give effect to the recommendations of the Morrison Committee on the working of the Bombay Stock Exchange or Share Bazaar known as the Native Share and Stock Brokers' Association with a view to prevent effectively speculation and over-dealing on the said Exchange, both by the outside public and the brokers *inter se*, and to consider the advisability of undertaking legislation, if necessary, for introducing the margin system of dealing on the said exchange for forward or *voida* transactions as recommended by the Morrison Committee.

*The resolutions are arranged according to the order of priority as determined by ballot.

Resolutions by Mr. N. S. Desai, M.L.C.

1. This Council recommends to Government that a Committee consisting of experts and non-officials conversant with the situation be appointed immediately to examine and report on the question of water facilities to, and possibilities of irrigation developments in, the Bagayat and paddy growing area in Kod Taluka, district Dharwar, which is situated between Masur and Tilwalli which is bounded by rivers Kumudvati and Wardha, and which has constituted, for the last 20 years or more, almost a famine zone.

2. This Council recommends to Government that the heads of all Departments be directed to issue clear order to their subordinates to supply to members of both Legislative Houses such information touching the welfare of public, as would facilitate the work of these members in the performance of their duties in such Houses.

3. This Council recommends to Government to move the British Parliament and the Government of India to take immediate steps for a separate administration province for the Karnatak area in British India.

Resolutions by Dr. P. G. Solanki, M.L.C.

1. This Council recommends to Government to classify separately and independently the "Scheduled Castes" from the "Backward Classes", under the nomenclature of "Scheduled Castes" or "Harijans" and to discontinue the practice of merging the "Scheduled Castes" amongst all other touchable Backward Classes as is done hitherto.

2. This Council recommends to Government to appoint a special officer whose function should be to safeguard the interests of the Scheduled Castes in matters social, economic, educational, housing, services and co-operative movements as is done in the Madras Presidency.

3. This Council recommends to Government to appoint a committee to inquire into the grievances and hardships of the operatives and staff working in various cinema companies in the Province as regards the irregular hours of work, overtime work, inadequate remunerations, and non-payment of wages to the operatives, workers and clerical staff and to submit a report to Government for their consideration.

4. This Council recommends to Government to apply the provisions of the Indian Factories Act to all existing and future cinema companies in the Province.

5. This Council recommends to Government to take steps to regulate the sale of tickets of the cinema shows in various theatres so as to avoid congestion in the theatres and to stop immediately selling of tickets outside the cinema theatres.

6. This Council recommends to Government to issue orders to the managers of the Dramatic Companies in the City of Bombay to standardise the rates of tickets of dramatic performances in the theatres, to sell tickets at those rates only and not to sell tickets in excess of the normal sitting accommodation in their theatres.

Resolution by Mr. B. N. Karanjia, M.L.C.

1. This Council recommends to Government to constitute an Economic and Industrial Council for the purpose of collaborating with all Provinces with a view to start, establish or develop such industries as, having full regard to the easy availability of raw materials and the markets for the finished products, can be successfully developed, keeping in view the special objective of establishing co-operating and complementary industries.

XII. PAPERS PRESENTED TO THE COUNCIL*—

(i) Government notification in General Department, No. 1907/33, dated the 10th January 1933, inserting a new rule 31A in the Bombay Weights and Measures Rules, 1934. [Placed on the Council table in accordance with section 41(3) of the Bombay Weights and Measures Act, 1932, as adapted.]

(ii) The following Government Resolutions regarding disposal of Government waste lands are placed on the Council table for the information of members :—

- (1) G. R., R. D., No. 366/33, dated 6th July 1937 ;
- (2) G. R., R. D., No. 366/33, dated 30th August 1937 ;
- (3) G. R., R. D., No. 366/33, dated 22nd February 1938.

J. R. DHURANDHAR,
Secretary to the Bombay
Legislative Council.

Bombay, 5th March 1938.

*Kept in the Secretary's office.

SUPPLEMENTARY AGENDA.

Supplementary agenda for the second session of the Bombay Legislative Council, commencing at the Council Hall, Bombay, on Saturday, the 5th March 1938, at 2 p.m. [vide S. O. X. 1 (1) (d).]

Resolutions by Mr. S. C. Joshi, M.L.C.

1. This Council recommends to Government to consider the advisability of separating the Judicial from the Revenue Branch of the Administration in this Province.

2. This Council recommends to Government to introduce a system of Provident Fund for that of Pension in the case of Government employees in the Province of Bombay receiving a monthly salary of Rs. 200 or less.

3. This Council recommends to Government to consider the advisability of fixing the minimum standard of wage for industrial and commercial employees in important cities like Bombay, Ahmedabad, Sholapur, etc.

Resolution by Mr. R. M. Gandhi, M.L.C.

1. This Council recommends to Government to constitute an Economic and Industrial Council for the purpose of collaborating with other Provinces with a view to start, establish and develop such industries, as, having full regard to the easy availability of raw materials and the market for the finished products, can be successfully developed keeping in view the special objective of establishing, co-operating and complementary industries.

Resolution by Mr. R. G. Pradhan, M.L.C.

1. This Council recommends to Government that they should request the Government of India to move the Secretary of State for India to provincialize the Indian Civil Service, the Indian Police Service and the Indian Medical Service.

J. R. DHURANDHAR,
Secretary to the Bombay
Legislative Council.

Saturday, the 5th March 1938.

The Council met at the Council Hall, Bombay, on Saturday, the 5th March 1938, the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHAY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HALDIPUR, Mr. S. R.
 HAMIED, Dr. K. A.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 MAHAJANI, Dr. G. S.
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 PATANKAR, Major Sardar BHIMRAO NAGOJIRAO
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 VIRKAR, Mr. M. B.

The following Honourable Ministers were also present :

The Honourable Mr. B. G. Kher.
 The Honourable Mr. A. B. Lathe.
 The Honourable Dr. M. D. D. Gilder.
 The Honourable Mr. L. M. Patil.

Message from the Legislative Assembly regarding its concurrence to amendments made by the Council in Bill No. V of 1938.

The Honourable the PRESIDENT: I have to communicate to the House the message from the Secretary of the Legislative Assembly regarding its concurrence to amendments made by the Council in

[The President]

Bill No. V of 1938. The letter is No. 523, dated 7th February 1938, and it says :

"In accordance with Rule 21-I (1) of the Bombay Legislative Assembly Rules, I am directed to inform you that the amendment made by the Legislative Council in Bill No. V of 1938 (An Act to remove disabilities of Harijans in regard to worship in temples) was taken into consideration by the Legislative Assembly at its meeting held on the 5th February 1938 and that the Legislative Assembly has agreed to the amendment."

Message from the Legislative Assembly regarding its concurrence to amendments made by the Council in Bill No. VI of 1938.

The Honourable the PRESIDENT: I have to communicate to the House another message from the Secretary of the Legislative Assembly regarding its concurrence to amendments made by the Council in Bill No. VI of 1938. The letter says :

"In accordance with Rule 21-I (1) of the Bombay Legislative Assembly Rules, I am directed to inform you that the amendments made by the Legislative Council in Bill No. VI of 1938 (An Act to provide for the temporary relief of small holders in the Province of Bombay) was taken into consideration by the Legislative Assembly at its meeting held on the 5th February 1938 and that the Legislative Assembly has agreed to the amendments."

GOVERNOR'S ASSENT TO ACT.

The Honourable the PRESIDENT: A message has been received that His Excellency the Governor has been pleased to grant his assent to the following Bill which was passed by the two Chambers of the Bombay Legislature during the last session, namely :—

The City of Bombay Municipal (Amendment) Act, 1938.

NOMINATION OF CHAIRMEN.

The Honourable the PRESIDENT: I have to appoint members to the panel of Chairmen. I appoint the following members :

1. Dr. K. A. Hamied.
2. Mr. N. D. Deodhekar.
3. Mr. S. C. Joshi.
4. Mr. R. G. Pradhan.

DEATH OF Mr. B. G. PAHALAJANI.

The Honourable the PRESIDENT: Before we commence the proceedings to-day, I might mention with regret the death of Mr. B. G. Pahalajani, who was a member of the old Legislative Council. He was a member from Sind. I have had no personal experience of or acquaintance with him, except that which I had at the last meeting of the Presidents and Speakers of all the Councils and Assemblies in India which was held at New Delhi.

[The President]

The late Mr. Pahalajani passed the matriculation examination at the very early age of 13, and he graduated at the early age of 17. He had a brilliant academic career, and he was a brilliant lawyer. He had a unique career even as a lawyer. He was a very useful member of the Legislative Council, and my little experience of him showed that he was very clear-headed and there was great clarity of expression in whatever he wanted to say.

If any honourable members desire to say something about the late Mr. Pahalajani, they may do so.

The Honourable Dr. M. D. D. GILDER: Sir, on behalf of Government I associate myself with the sentiments you have expressed. I knew the late Mr. Pahalajani. I first came into touch with him more than 10 years ago when he was the leader of the party to which I belonged in the Legislative Council, and I must say that whatever work the Opposition was able to do then was due in great measure to his perspicacity and his leadership. It was with very great regret that I heard about his demise. With these words, I associate the Government with what has fallen from your lips.

Mr. R. G. PRADHAN (Thana *cum* Nasik *cum* Ahmednagar): Sir, I beg to associate myself with the sentiments to which you have given expression. It was with profound sorrow that I heard the sad news of the death of Mr. Pahalajani. It was my proud privilege to work with him for some years as a member of the Bombay Legislative Council under the Montagu-Chelmsford constitution. Mr. Pahalajani had a very long and fine record of public service. He was president of the Sukkur municipality for over 10 years. He was also the Deputy President of the Bombay Legislative Council. His great popularity in his own city is evidenced by the fact that his funeral was attended by thousands of his fellow townsmen.

Sir, a great characteristic of Mr. Pahalajani which impressed me and his other colleagues in the Bombay Legislative Council was his sturdy independence of character. He was fearless in giving expression to his views, and he never flinched from fighting the battles of the people. He died a death which I think all would like to covet. He died in harness while he was devoting his life to the new Legislative Assembly under the constitution under which we are all functioning. He was a thorough Nationalist and his patriotism was absolutely beyond question. One cannot but feel a sense of jealousy when one reflects upon his career, upon his character and upon the unstinted and devoted services he rendered to the cause of his country. Sir, it is with genuine and deep grief that I associate myself with this motion.

Dr. G. S. MAHAJANI (Poona *cum* Satara): Sir, just a word. The late Mr. Pahalajani was a member of the Senate and as such I had several opportunities of coming into contact with him. Sir, I was a member of the Triennial Inspection Committee of the University, which

[Dr. G. S. Mahajani]

visited Shikarpur a few years ago and we enjoyed the hospitality at Mr. Pahalajani's place at Sukkur and we know to what extent he helped the Shikarpur college as a leading member of the governing body of that society. I do not want to add anything further; as in the political field, so also in the educational field Mr. Pahalajani contributed to the public life of this country and all members know that he made a sacrifice by consenting to accept a lower salary as the Speaker of the Sind Legislative Assembly.

Sir, I beg to associate fully with the sentiments to which you have given expression.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, I am sorry I had not the pleasure of being personally acquainted with Mr. Pahalajani; still I associate myself with the feelings of sorrow expressed by you, Sir, and the honourable members.

Dr. P. G. SOLANKI: Sir, I fully associate myself with the sense of sorrow and the sentiments expressed here by honourable members and yourself. I knew Mr. Pahalajani from 1927. I knew him as a member of the past Council and also as a fellow of the University and the Senate. In the past Council Mr. Pahalajani was a figure which was always predominant and was taking active part in each and every debate which concerned the welfare of the country. He used to study each and every subject and at the same time he never cared for the frowns or the smiles of the Government Benches when he delivered his speeches and criticised the Government ruthlessly. If I were asked who was the real nationalist of those days, I would point out Mr. Pahalajani as the most independent nationalist of those days. He would speak and give out his ideas and expressions without fear and at times he would carry the debate at very great length, sometimes even for hours. He tried to assure and satisfy us on each and every point and many times he carried, if not all, most of the members of the House with him. He, as the Honourable Dr. Gilder told us, was the leader of the party to which he had the honour to belong as a member, and he led his party, which was organised under him, with discipline. Mr. Pahalajani was always devoting his time to educational problems concerning Sind particularly, and till the time of the separation of Sind he was with us. We parted when Sind was separated. In Sind also he was taking a leading part in public life and was the Speaker of the new Legislative Assembly. It was rightly said by the honourable member Mr. Pradhan that Mr. Pahalajani died in harness. He had not given up his work or retired when the call came and he had to submit. Sir, mortal beings as we are, we have to obey the call from above. I have nothing more to add, but to associate myself with all the sentiments of sorrow which have been expressed by all the honourable members and by you, Sir.

The Honourable the PRESIDENT: As usual, I think the honourable members of this House will pay their respect to the memory of the deceased by rising in their places. [*Honourable members rose in their places.*]

STARRED QUESTIONS AND ANSWERS

CONSUMPTION OF STATIONERY.

*Mr. S. C. JOSHI: Will the Honourable the Minister for Local Self-Government be pleased to state—

(a) the amount spent on stationery by the various offices in the Province during the last three years under each of the classifications below :—

- (i) on articles made in India,
- (ii) on articles made in the Province of Bombay,
- (iii) on articles imported from abroad ;

(b) whether any article of stationery imported from abroad was purchased in preference to any Indian-made article ; and

(c) if answer to (b) is in the affirmative, then the reasons therefor ?

The Honourable Mr. L. M. PATIL : (a) (i) *On articles made in India—*

				Rs.
1934-35	..	..	..	3,44,092
1935-36	..	..	..	3,90,849
1936-37	..	..	..	5,01,271

(ii) *On articles made in the Province of Bombay—*

1934-35	..	..	..	3,09,510
1935-36	..	..	..	3,45,663
1936-37	..	..	..	4,41,277

(iii) *On articles imported from abroad—*

1934-35	..	..	..	2,29,790
1935-36	..	..	..	1,96,244
1936-37	..	..	..	2,37,774

(b) Yes.

(c) In some cases the quality of the Indian-made articles was unsuitable and in other cases the rates were unduly high when compared with the rates of the imported articles.

Mr. S. C. JOSHI: Sir, will the Honourable Minister be pleased to inform if the figures given in (a) (i) are inclusive of those given in (ii), i.e. figures of articles made in the Province of Bombay? Are they exclusive ?

The Honourable Mr. L. M. PATIL: Exclusive.

Mr. S. C. JOSHI: Then as regards part (b) will the Honourable Minister please state some of the articles of that kind ?

The Honourable Mr. L. M. PATIL: I have got the whole list of the articles of foreign make which were used up to 1937. I will read some of them. Do you want the whole to be read ?

Mr. S. C. JOSHI : No, I do not.

The Honourable Mr. L. M. PATIL : Carbon papers, cream laid papers, letter papers D. O., envelopes, nibs, pins, tape (red), glue, paste, etc., etc.

Mr. N. D. DEODHEKAR : Is red tape a foreign article ?

The Honourable Mr. L. M. PATIL : Yes.

Mr. S. C. JOSHI : Are not nibs manufactured in India as good as and as cheap as the nibs manufactured in foreign countries ?

The Honourable Mr. L. M. PATIL : I have not got the full information, but Government have appointed a committee to go into the whole question of the purchase of Indian-made articles as far as possible.

MEASURES FOR REMOVING SOCIAL DISABILITIES OF THE DEPRESSED CLASSES.

*Dr. P. G. SOLANKI : Will the Honourable the Minister for Law and Order be pleased to state what policy Government propose to follow and whether they intend to take any measures in regard to—

(a) the Securing of civic rights to the Depressed Classes ;

(b) the Removal of restrictions imposed upon trustees of private Hindu Trusts from giving the benefits of the use of the wells, Dharamshalas, Schools, Boarding Houses, etc., to the Depressed Classes ; and

(c) the Removal of untouchability generally ?

The Honourable Mr. B. G. KHIER : (a) and (c) In all legislation relating to Local Bodies, the depressed classes have been granted the same civic rights as all other sections of the public possess. Government have repeatedly issued executive orders and Press Notes emphasising that depressed classes should be permitted unrestricted use of all amenities provided or maintained out of public funds, such as schools, public hospitals, dispensaries, dharamshalas, wells, tanks, public vehicles, etc. Whenever any specific instances of the breach of these orders are brought to the notice of the officers concerned, suitable action is taken. The Honourable Member's attention is invited to the Report of the Backward Class Department for 1935-36 and Government Resolution, General Department, No. 847/33, dated the 25th April 1935, a copy of which is placed on the Council† Table.

(b) Government have no power to interfere in regard to the terms of private Hindu Trusts.

(c) *Vide* reply to (a) above.

Dr. P. G. SOLANKI : Supplementary with regard to (a). In line 8 in the answer given it is stated that whenever any specific instances of the breach of these orders are brought to the notice of the officers

† Kept in the Secretary's Office.

concerned, suitable action is taken. May I bring to the notice of the Minister in charge that in the past in the village known as Kavitha in the Ahmedabad district, though there were repeated requests from the backward classes, the officer refused to admit children of the scheduled castes in the primary school ?

The Honourable the PRESIDENT: What is the question ? The honourable member will please frame his question.

Mr. DADUBHAI P. DESAI: He is making a speech.

The Honourable the PRESIDENT: I have asked him to frame his question.

Dr. P. G. SOLANKI: What had been the result of the repeated requests in this specific instance ? What action was taken by the Government regarding the primary school at Kavitha ?

The Honourable Mr. B. G. KHER: Strictly speaking, I am entitled to claim notice for this question, because the Kavitha incident did not take place after we accepted office. It was long before that. But I happen to know the whole question as I had been myself to Kavitha. I must admit that in many places this does happen that the children of the untouchable classes are kept out of the schools. Government have therefore now decided to follow a somewhat similar rule to the one which has now been framed in Madras, namely, unless, in a village where there are untouchables, untouchable children are found in the school, the school will be presumed to have refused admission to the children of the untouchable classes, and that school will be accordingly dealt with, i.e., their grants may be withheld and other liabilities will be imposed on them. In the past—

Mr. N. D. DEODHEKAR: Sir, I am sorry, I have not followed the last sentence.

The Honourable Mr. B. G. KHER: The Madras system is that if an inspector does not find any children of the untouchable class in any school, then he presumes that the school authorities refused admission to untouchables. This is, of course, provided there are untouchable people living within one mile of that school. Therefore, the burden of proving why they are not coming is upon them, because, otherwise, the dodge adopted is in the answer given, that the children refuse to come there. "The children do not want to go to school; we do not object, but the children will not go". In Kavitha local social workers had made arrangements for the education of the children at the time I visited it and the grievance was being redressed, but if the honourable gentleman wants any further information about Kavitha, I can only supply him after claiming notice of the question. I might tell him that occurrences like that will be very strictly dealt with now, because, as he knows and as I informed the House, we are now making a rule which will make such a thing impossible.

UNSTARRED QUESTIONS AND ANSWERS.

PUBLIC LIBRARIES IN THE PROVINCE.

Mr. S. C. JOSHI : Will the Honourable the Prime Minister be pleased to state—

- (a) the number of public libraries in the Province
- (i) financed entirely by Government,
- (ii) financed partly by Government and partly by other bodies or institutions; and
- (b) the approximate total number of books contained therein ?

The Honourable Mr. B. G. KHER : (a) (i) and (ii) Nil.

(b) Does not arise.

SUGAR FACTORIES IN THE PROVINCE.

Mr. S. C. JOSHI : Will the Honourable the Minister for Public Works be pleased to state—

- (a) the total number of sugar factories in the Province at present;
- (b) the total capacity of such factories to crush sugar-cane; and
- (c) the total area of cane cultivated by such factories ?

The Honourable Mr. M. Y. NURIE : (a), (b) and (c) The attached statement gives the required information.

Sugar factories in the Bombay Province.

Name of the Sugar Company.	Name of the Canal on which the sugar factory is situated.	Name of the District in which the factory is situated.	Crushing capacity of the Sugar Company's present plant in tons per day.	Area of cane cultivated by the factory during 1936-37.
1	2	3	4	5
			Tons.	Acres.
1. The Belapur Company Limited.	Pravara Left Bank Canal.	Harijona in the Ahmednagar District.	600	2,848
2. The Maharashtra Sugar Mills Limited.	Pravara Left Bank Canal.	Near Belapur in the Ahmednagar District.	600	1,720

Name of the Sugar Company.	Name of the Canal on which the sugar factory is situated.	Name of the District in which the factory is situated.	Crushing capacity of the Sugar Company's present plant in tons per day.	Area of cane cultivated by the factory during 1934-37.
1	2	3	4	5
			Tons.	Acres.
3. The Sawad Mill Sugar Factory Limited.	Nira Right Bank Canal.	New Akliuj in the Sholapur District.	300	1,145
4. The Phaltan Sugar Works Limited.	Nira Right Bank Canal.	Near Tadavi in the Phaltan State.	500	2,000
5. Messrs. Marsland Price and Company Limited.	Nira Left Bank Canal.	Kalamb in the Poona District.	300	1,646
6. The Rawalgum Sugar Farm Limited.	Girna Canal	Near Malegaon in the Nashik District.	200	1,100
7. The Belvandi Sugar Farm Limited.	Visapur Canal.	Near Belvandi in the Ahmednagar District.	200	315
8. The Brihan Maharashtra Sugar Syndicate Limited.	Nira Right Bank Canal.	Sholapur District	450	129
9. The Kolhapur Sugar Mills.	*	Kolhapur State	400	900

*The cane cultivation by the Kolhapur Sugar Mills is done with river irrigation.

SCHOLARSHIPS IN CONNECTION WITH PRIMARY AND SECONDARY EDUCATION.

Mr. S. C. JOSHI: Will the Honourable the Prime Minister be pleased to state—

(a) the total amount spent in 1934-35 and 1935-36 on scholarships to students receiving (i) Primary and (ii) Secondary education in the Province; and

(b) the total amounts so reserved in each case for students of different communities?

The Honourable Mr. B. G. KHER: (a) and (b) The accompanying statement gives the information required.

Statement showing the total amounts spent and reserved for the different communities on Government Scholarships in Primary and Secondary schools during the years 1934-35 and 1935-36.

Name of the Community.	Year.	Schools.	Total amount spent.	Total amount reserved.
			Rs.	Rs.
Backward	1934-35	Primary	15,721	17,040
Muhammadians (Girls)	Do.	Do.	85	360
Muhammadians	Do.	Do.	7,504	9,240
Non-Muhammadians (Girls)	Do.	Do.	123	432
			23,433	27,072
Backward	1935-36	Primary	16,195	17,040
Muhammadians (Girls)	Do.	Do.	270	360
Muhammadians	Do.	Do.	7,510	9,240
Non-Muhammadians (Girls)	Do.	Do.	12	432
			23,987	27,072
Advanced	1934-35	Secondary	8,888	9,120
Intermediate	Do.	Do.	88,314	92,184
Backward	Do.	Do.	30,263	48,024
Muhammadians	Do.	Do.	45,811	50,232
			1,73,276	1,99,560
Advanced	1935-36	Secondary	8,913	9,120
Intermediate	Do.	Do.	82,362	84,168
Backward	Do.	Do.	31,044	43,848
Muhammadians	Do.	Do.	41,922	45,864
			1,63,141	1,83,000

MILK PRODUCTS IMPORTED IN THE PROVINCE AND THE DAIRIES OWNED BY GOVERNMENT.

Mr. S. C. JOSHI : Will the Honourable the Minister for Revenue, Rural Development and Agriculture be pleased to state—

(a) the total quantity of milk products and cheese imported into the Province of Bombay during each of the last three years ; and

(b) the number of dairies in the province—

(i) owned and conducted by Government ;

(ii) subsidised by Government ; and

(iii) owned and conducted by private persons and bodies ?

The Honourable Mr. MORARJI DESAI : (a) and (b) The information required is furnished in the appended statements.

STATEMENT " A ".

Year.	Milk foods for infants and invalids (wholly or mainly milk)		Milk condensed and preserved including milk cream.	
	Quantity.	Value.	Quantity.	Value.
	Cwt.	Rs.	Cwt.	Rs.
1934-35	2,064	2,66,195	7,452	3,06,184
1935-36	896	1,99,707	8,700	3,53,576
1936-37	1,116	2,43,344	9,355	3,77,419

Year.	Butter (including canned).		Cheese (including canned).		Ghee.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
	Cwt.	Rs.	Cwt.	Rs.	Cwt.	Rs.
1934-36	1,476	1,07,471	3,300	2,50,844	70	3,900
1935-36	1,438	1,22,978	3,328	2,33,218	97	4,914
1936-37	1,682	1,53,028	3,764	2,47,870	111	4,771

STATEMENT " B ".

Dairies owned and conducted by Government.

No.	Name of the dairy.
1	Agricultural College Dairy, Kirkee.
2	Surat Dairy at the Agricultural Station, Athwa Farm, Surat.
3	Government Military Dairy Farm, Kirkee.
4	Government Military Dairy Farm, Deolali.
5	Government Military Dairy Farm, Belgaum.

STATEMENT " C ".

Dairies subsidized by Government.

No.	Name of the dairy.
1	Bombay Gowrakshak Mandali, Kandivlee (Bombay).
2	Infants and Public Milk Supply Company, Limited, Bombay.
3	Mr. Moosa Haji Mohamad Killedar and Brothers, Bombay.
4	Mr. Haji Umerji Moosa Bharucha, Bombay.

STATEMENT "D".

Fairies owned and conducted by private persons and bodies.

No.	Name of the dairy.
1	Mr. Haji Alimahomed Jalaluddin, Islampura, Bombay.
2	The Byculla Dairy Company, Bombay.
3	The Parsian Dairy Company, Bombay.
4	Stafford's Dairy, Bombay.
5	Globe Dairy Company, Bombay.
6	Wilt Shire Dairy Company, Bombay.
7	Folson Manufacturing Company, Colaba, Bombay.
8	Poona Dairy Company, Colaba, Bombay.
9	English Dairy Company, Colaba, Bombay.
10	Civil Dairy Farm, near Apollo Bunder, Bombay.
11	Rising Sun Bakery, Golpitha, Bombay.
12	Star Bakery, Dadar, Bombay.
13	National Dairy Farm, Colaba, Bombay.
14	Parisian Dairy Company, Fort, Bombay.
15	Star of India Dairy Company, Fort, Bombay.
16	Osborn Dairy Company, Apollo Bunder, Bombay.
17	Infant and Milk Supplying Dairy, Ballard Pier, Bombay.
18	Pearson Dairy Company, Ballard Pier, Bombay.
19	Imperial Dairy Company, Opposite Marine Lines Station, Bombay.
20	Continental Dairy Farm, Lohar Street, Bombay.
21	Champion Dairy Company, Grant Road, Bombay.
22	Indo Colonial Dairy Company, Tribhuvan Road, Grant Road, Bombay.
23	The Byculla Dairy Company, Opposite Kama Bag, Bombay.
24	Indian Dairy Farm, Powala Street, Grant Road, Bombay.
25	Light of Asia Dairy Company, Balaram Street, Bombay.
26	S. Morton Dairy Company, Balaram Street, Bombay.
27	Indian Industrial Dairy Farm, Lohar Street, Bombay.
28	M. B. Dairy Farm, Balaram Street, Bombay.
29	Globe Dairy Company, Grant Road, Bombay.

STATEMENT "D"—contd.

No.	Name of the dairy.
30	Albert Dairy Company, Grant Road, Bombay.
31	Empress of India Dairy Company, Grant Road, Bombay.
32	Messrs. Stafford and Company, Hill Road, Bombay.
33	Premier Dairy Company, Grant Road, Bombay.
34	Noble Dairy Company, near Gowalia Tank, Bombay.
35	Garline Dairy Company, Opposite Parsi Statue, Bombay.
36	Royal Dairy Company, Opposite Parsi Statue, Bombay.
37	Royal Persian Dairy Company, Mazgaon, Bombay.
38	Yorkshire Dairy Company, Tribhuvan Road, Bombay.
39	Acme Dairy Company, near Mission Hospital, Nadiad.
40	Austrian Dairy Company, near Shiyaji Gunj, P. O. Baroda.
41	Crown Dairy Company, Darya Mahal, Surat.
42	The Overland Dairy Company, Reachy Road, Ahmedabad.
43	Alliance Dairy Company, Reachy Road, Ahmedabad.
44	European Dairy Company, Khadia, Ahmedabad.
45	Empire Dairy Company, Sakkar Bazar, Panjrapole, Ahmedabad.
46	Pioneer Dairy Company, Ahmedabad.
47	Christian Dairy Company, Sakkar Bazar, Panjarapole, Ahmedabad.
48	Mission Dairy Company, near Rohadia Hanuman, Ahmedabad.
49	English Crown Dairy Company, near Hope Market, Ahmedabad.
50	Dudhia Dairy Company, Raipur, Ahmedabad.
51	Grand Indo-British Dairy Company, Khadia, Bombay.
52	Calcutta Butter Manufacturing Company, Sarangpur, Ahmedabad.
53	Simplex Butter Manufacturing Company, Ahmedabad.
54	Reliance Dairy Company, Opposite English Cinema, Ahmedabad.
55	Hygiene Dairy Company, Ahmedabad.
56	Star Dairy Company, Raipur, near Gowled Naka, Ahmedabad.
57	Lords Dairy Farm, Ahmedabad.
58	Lucky Dairy Company, Ahmedabad.
59	Poona Dairy Company, Main Street, Poona.

STATEMENT "D"—concl'd.

No.	Name of the dairy.
60	Pasteur Dairy Company, Main Street, Poona.
61	English Dairy Company, Main Street, Poona.
62	Florence Dairy Company, Main Street, Poona.
63	King George Dairy Company, Main Street, Poona.
64	Meadow Dairy Company, Main Street, Poona.
65	Belgaum Dairy Company, Belgaum.
66	Star Dairy Company, Belgaum.
67	Sholapur Dairy Company, Sholapur.
68	Wilson Manufacturing Company, Bombay.
69	Carlisle Dairy, Byculla, Bombay.

PRESENTATION OF THE BUDGET.

The Honourable Mr. A. B. LATTHE : Sir, it is now my duty to present the budget for the next year, the year 1938-39, to this House. I hope the House will recognise that on this occasion we have tried our best to present the budget at a time which will suit the convenience of the honourable members here and will enable them to make all their suggestions with regard to the budget before it is finally passed in the Assembly. That was the desire of the honourable members, as it was expressed last time. I then stated that it would be my desire to present the budget at the same time in both the Houses, but unfortunately there was hardly any work which could be found for this Council if it were to be called on the 25th of February and we could not have the pleasure of presenting the budget simultaneously in the two Houses. But substantially, I hope the House will recognise, we have met the promise we had given last time. I am sure that the honourable members have now read the detailed explanations about the budget which I gave in my speech in introducing the budget to the Assembly. *The speech was criticised possibly outside the House and, if I remember correctly, by some people in the other House, that it was too long a speech.* I do not wish to try to prolong my explanations of the speech by any further remarks in this House. I am quite sure that honourable members here have read all those explanations and they must be ready with any observations or suggestions which they may have to make in the light of all the explanations that have been given by me.

I may only just make a passing reference to one or two points. There has been a lot of criticism made with regard to certain allotments proposed

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to be made in the budget in a lump form. It has been stated that those grants have been demanded without adequate and careful examination of the details of those grants. As I stated elsewhere, I do recognise and Government do recognise that usually the practice should be to very carefully examine each demand for grant before it is embodied in the budget. That is a principle which is very wholesome and which, of course, every Government has got to accept. But it must also be remembered that in all parliaments sometimes occasions arise when all the details are not worked out and yet it is necessary that the sanction of the Legislature ought to be taken on the broad principles of the expenditure informally. In any case the House will realise that though in theory the legislature has complete authority when it wants to vote for the executive Government, though that is the theory, I think, it will be recognised that a detailed examination of any expenditure by a big legislative body is an impossibility. The detailed examination has got to be left to the Finance Department, which is supposed to be the expert department in financial matters and though a lump demand is made and a lump grant is sanctioned, it does not mean that the Finance Department is going to allow that expenditure without the careful examination to which every expenditure ought to be submitted. Even when a lump sum is sanctioned by a legislature, the Finance Department is bound to scrutinise the proposals when they come for their approval with the utmost care and no matter whether the amount has been sanctioned by the legislature or not. Of course, legislative sanction is essential, but even when the legislature gives its sanction it does not mean that the expenditure can be incurred by any department on its own responsibility. Even after the sanction of the legislature, the expenditure has to be justified, each item of expenditure has to be worked out and has got to be submitted to the Finance Department by the spending department and the Finance Department has the authority to say that a certain part of the plan or scheme as made out is wrong, is wasteful or is not in exact concurrence with the purpose for which the grant was made. It is the business of the Finance Department, it is the duty of the Finance Department, to do this, and that is done. So a mere demand for a grant of a lump sum should not be taken as a demand for a grant which the spending department will spend just as it pleases. As I have stated, the justification for these grants being adopted in certain cases, in certain circumstances, is not a justification of any practice other than the one to which I referred when I began dealing with this point.

There is only one other point to which I would make a reference. The programme outlined in the budget speech is fairly a large programme. I say this with a little hesitation, because I have heard some people say that the programme of a new expenditure of a crore and sixteen lakhs is not a very big programme and at least 24, 36 or 50 crores must be spent by the Bombay Government. People with that view we do come across and, therefore, out of deference to the views of those people, I will not say that this is a very big programme, but as it is, it is a fairly

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important programme and the Government also recognise that though today it is a programme for spending 116 lakhs, it is bound to be a programme which must lead to a much heavier expenditure than 116 lakhs a year. This naturally implies certain obligations and those obligations are that not only this expenditure should be incurred with care, but also that sufficient funds should be found out for financing the future development of the schemes which we are to sanction today. That implies a responsibility on the legislature to find very much more money than we have to find out this year. I have referred to this necessity of the legislature being able to provide for more and more expenditure in the future years. I have also pointed out the difficulties which face us in any demands we make for raising more revenue.

In this House, where more particularly we see representatives of the richer classes, big landlords, I would just invite attention to one point. In August when I introduced the budget in Poona, I referred to the advisability of taxing the holders of alienated lands. In introducing
2-30 p.m. the budget this year in the Assembly I stated that that subject is still under investigation. Various difficulties arose. The alienations consist of various classes. Certain alienees are performing certain services even today. Then there are other alienees who have been given lands without any conditions. There are certain alienees who hold lands not for services rendered today, but on certain conditions, and there are various classes of them. Naturally, you cannot deal with all these classes in one and the same way. There have been promises given in the past by the previous Governments. They have also to be considered. In view of all these difficulties, we have not been able to come to any definite conclusion with regard to this subject.

There has been also a great deal of agitation in the class to which a measure of this kind would naturally apply. Even today I am sorry that I am not in a position to state definitely what the conclusions of the Government may be after the enquiries are completed. But I must say this, that those who belong to this class have got to give to the public a better justification for the advantages which they are enjoying than that their forefathers did some service 200 years ago. That may be a reason why these alienations were made, but if the holders of these inams want to continue to enjoy all the concessions in the present time and in the future, they will have to give a better justification for this claim of theirs than the fact that their forefathers did some service some generations ago. They will have to show what purpose they are serving in the structure of society today. I am not speaking from the point of view of a Socialist, I am not speaking from the point of view of one who is jealous of the holders of property. I am not speaking from the point of view of those who want to expropriate people, to take away all private property, especially to rob all the rich people. That is not my point of view. But all the same, it must be recognised that when a certain class of people enjoy certain privileges which others do

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not enjoy—for instance, exemption from payment of land revenue—there must be some justification for it, and I would very respectfully point out to this class that mere past glories will not be a sufficient justification in the eyes either of the present or of the future Government. I wish the awakened inamdars of our Province bestow some thought on this point, and draw our attention to their alleged or supposed services. Well, I say alleged or supposed, because some people have stated that their services have consisted of nothing; I would use the words nothing but treachery to the then existing Government. That is true in the case of some. Well, I should think that this class should bestow a little thought on this aspect of the question and should try to help the present society, or tell the enlightened public as to what services they are today rendering or what services they want to render in future in return for the benefits and concessions which they and they alone enjoy in society. If they bring a frame of mind of this kind to the consideration of this question, I am sure that they will serve a purpose useful to themselves and useful to the public at large. Government have to look at the question from many, many points of view. As I have said already, the conclusions cannot be anticipated today. I am speaking in a general way, and I would repeat that it is the desire of Government that every class which enjoys any benefit at the hands of society today must make an adequate and proper return for the concessions which it enjoys. There would be complete justification for the Government if they expected a proper return from the huge amount of alienations, alienations amounting to a land revenue of almost a crore of rupees in this Province, and if that return is not forthcoming, some taxation, the placing of some burden by law on that class would not be unjustified. Sir, I submit the budget statement for the year 1938-39 to this House.

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT: There are two days for the general discussion of the budget, Monday the 7th and Tuesday the 8th. We will begin on Monday at 2 p.m. On Monday we will decide whether we should sit till 4 or 4-30 p.m.

The House then adjourned till 2 p.m., on Monday, the 7th March 1938.

Monday, the 7th March 1938

The Council re-assembled at the Council Hall, Bombay, on Monday, the 7th March 1938, the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HALDIPUR, Mr. S. R.
 HAMIED, Dr. K. A.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM.
 MEHTA, Mrs. HANSA JIVRAJ.
 PATANKAR, Major Sardar BHIMRAO NAGOJIRAO.
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MAHOMED
 VIRKAR, Mr. M. B.

The following Honourable Minister was also present :

The Honourable Mr. A. B. LATTHE.

TIME OF SITTING OF THE COUNCIL.

The Honourable the PRESIDENT: Before we commence, I should like to fix the hours for to-day. I should like to know the wishes of honourable members whether we should sit up to 4 or 4-30. My idea is that we should continue today till 4 or 4-30 and tomorrow from 2 p.m. till we finish. I should like to know the wishes of honourable members.

Mr. N. D. DEODHEKAR : I would propose that today we should stop by 4 o'clock, so that we can go downstairs and listen to some interesting debates taking place there.

Mr. S. C. JOSHI : Last year it was found somewhat inconvenient at the end of the second day. Some of the members wanted to speak and the time was over. If we continue longer today and finish tomorrow earlier, that would be much better.

The Honourable the PRESIDENT : If any members desire to go to the Assembly to listen to some important debate, they may do so. I should like to say that we have got to look to the privileges of our own House and the rights of debate. So, I do not wish to limit the time available to the members for the general discussion of the budget for the sake of any interesting matters outside the House. So, I would rather that today we continue till 4-30, and if there are many more members desiring to speak, then the debate can be continued after that even. Tomorrow, we can sit from 2 to 7 if it is necessary. Today we sit from 2 to 4-30. That will give us an idea of how the debate progresses. If members desire to continue, then we can continue from 5. Tomorrow we can sit from 2 to 4 or 4-30, and from 4-30 or 5 till 7 or 7-30. I do not think that the time given to the members to discuss the budget should, as far as possible, in any way be curtailed.

GENERAL DISCUSSION OF THE BUDGET.

Sir CURRIMBHOY EBRAHIM (Bombay City *cum* Bombay Suburban District) : Sir, the financial statement that has been submitted on behalf of the Bombay Government by the Finance Minister has been welcomed by the members of the Lower House as the poor man's budget, and several members on the floor of Lower House have given their support to it. I am afraid my feeling towards the financial statement is not the same. After perusing the budget I find that I would be justified in giving my qualified support which the budget deserves. There have been certain new provisions made by the Congress Government which I wholeheartedly welcome, and I am sure any one having the good of the Province at heart would do the same.

Sir, before proceeding to other matters, I would like to say a few words about the Federation. It will be remembered by the honourable members here that during the Poona session certain provision was made for the inauguration of Federation, but this time I wish to congratulate the Prime Minister and the Finance Minister as well for not making provision in the budget for the Federal election. Sir, the time has come when the leaders of both the parties should try to unite in order to give a united front to this unwanted scheme, and if the move is made early, it would be better for resisting the scheme. I have noticed only a week back that the Under Secretary of State for India has made a statement in the House of Commons that in spite of the declarations of the Provincial Legislatures the British Government is determined to impose the Federation Scheme as contemplated in the Government of India Act.

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Now, coming to the proposals for taxation, it is a fact that the Bombay Government needs money very badly. In my last budget speech I had suggested certain taxation to be levied upon those people who are doing certain sorts of forward business. The Finance Minister seems to have paid attention as regards this only to the Stock Exchange. But what about the other kinds of forward business that is being done in cotton, bullion, seeds and several other kinds of materials? I am sure the Congress Ministry is not in favour of having more than one of these legalised gambling places. There used to be only one Stock Exchange in Bombay, but now Bombay is to be blessed with two Stock Exchanges. The business of the other Stock Exchange may be on a different basis, but it is forward business. Sir, the tax that has been suggested by the Finance Minister upon the Bombay Stock Exchange is 4 annas on Rs. 5,000 worth of forward business. Personally, I do not consider that this is really a reasonable tax that should be levied upon them. The tax which I had suggested was 1 anna on a transaction of Rs. 100. I know the speculators in the Bombay Stock Exchange do not mind losing any amount. Surely, they would not mind paying 1 anna on a transaction of Rs. 100. I feel sure that my honourable friends here will feel in their heart of hearts that it is necessary to levy a tax of 1 anna on Rs. 100 transaction, because I am fully aware that the Congress Ministry is also paying attention to the question of unemployment. If such a tax as I have suggested is levied upon them, then what would happen is that they would be compelled to invest money in some industry or other, and that will contribute towards solving the problem of unemployment.

The second suggestion which I had made during the last session was this. Schedule VII of the Government of India Act provides for a professional tax. A person receiving a sum of Rs. 500 per month or more could be taxed at the rate of 10 per cent. and that would never interfere with the Central Government at all. I find in the present financial statement somehow or other this has been omitted, for reasons best known to the Finance Minister.

Then comes the question of sales tax. The Finance Minister on the floor of the Lower House stated that there are certain complications and difficulties that are arising in the matter. I would suggest, Sir, that as the Federal Court today has been sitting idle, and it is no use our being in darkness, this matter should be referred to that Court and our doubts cleared in the way that we really want to do.

Sir, I am glad that the suggestion which I made in my last budget speech in the Poona session has been accepted by Government. I had asked for the appointment of a Labour Committee. The Government appointed one, and I find that even the millowners have accepted the increases recommended in the wages, as I read in the newspapers. At the same time, I would like to draw the attention of the Finance Minister to the fact that if any increase of wages is granted in the Bombay Presidency, naturally there would be an increase in the cost on the

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production side. In other words, the Bombay Government would be giving protection to the textile industry in the other Provinces. Under the circumstances, I would request the Government to see to this matter also. Of course, I have got nothing to say if the millowners themselves agree to it. But I am of the opinion that there should be a uniform labour policy in the matter of increasing or adjusting the wages for the whole of India, so that one Province may not suffer for the faults or for the action of other Provinces.

Then with regard to the proposed electricity tax of 3 pies per unit, I am aware that the Finance Minister has stated that they would levy the tax of 3 pies per unit on the understanding that the electric company reduces its rate. If the electric company reduces its rate, then comes the question of the staff which they employ. If the rates charged for electricity are reduced, they might have to retrench the staff. I therefore think that Government ought to appoint a committee which could go into the question whether the electric companies are making any excessive profits. If that is the case, then I have nothing to say in the matter. If such a committee is not appointed and if we are not able to find out whether the electric companies are making excessive profits, and if under such conditions this charge of 3 pies per unit is to be imposed and the electric companies are to be compelled to reduce their charges, then the electric companies might decide to retrench their staff, and that will again contribute to the problem of unemployment.

Sir, I welcome the relief which it was in the power of the Congress Government to give to the peasants and labourers. As regards that, I know there are so many difficulties, and they are trying to find out moneys from one source or another.

As regards education, I must thank the Prime Minister who has, in consultation with the Finance Minister, set aside the sum of Rs. 33 lakhs for education, and the Prime Minister is making every effort so far as education is concerned. I know it is very little, but even for the little sum that they have set aside for the education of Muslim girls I am thankful indeed to the Minister of Education. On the next occasion, I am sure Government will try to find more money for the education of Muslim girls who are so backward at present. Sir, I really do not want to interfere with the question of Hindi and Urdu, but I have been compelled to do so because the Honourable the Prime Minister, if I remember correctly, stated on the floor of the Lower House that Urdu is a language which is a mixture of Persian and possibly of a local language like Marathi. Sir, I beg to differ from that statement. Sir, I have no objection about his other remarks, but at the same I would like to state that Urdu language is itself a language which could be said to be used for very many purposes and which is an oriental language. Sir, I do not wish to take up an opposite attitude and say like some other party "You may introduce Sanskrit". I do not wish to place such an argument before the House. I know, of course, that Hindi language is nearing the Urdu language. If one understands Urdu he can also

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understand Hindi, but there again the question of pronunciation would crop up. Urdu is a language by itself, and therefore I am requesting that Urdu should be the language of the country. Unfortunately, the Urdu that is spoken by the Mussalmans on the southern side of the country is not correct Urdu at all, but if one visited the northern side—I am sure several honourable members must have visited the northern part of our country where very high Urdu is spoken—one would certainly find it difficult to follow the correct Urdu that is spoken in that part. I myself at times found it difficult to follow. I therefore submit that such a good language should not be murdered in any circumstances.

As regards the volunteer police corps, I am glad that the Government want to have a volunteer police corps in order to assist the Police in the Bombay City. I should like to be clear on this matter and suggest that this volunteer corps should not be given any other duty but to help the police during the time of strikes in mills, and during communal riots. In making recruitment to this voluntary corps care should be taken that no distinction on the basis of community and caste is made and that every community is fairly represented. Distinction should not also be made on grounds of political opinions and organisations. If a volunteer police corps on the lines I have suggested is organised, I see no reason why Government should not be supported on this ground also. The idea is indeed marvellous because of the fact that by organising such a corps Government would be preparing our youths to assist the peaceful citizens of this big city.

With these words I resume my seat.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): No doubt, Sir, the budget which has been presented by the Honourable the Finance Minister shows considerable anxiety on his part and on part of the Government to try to please as many parties as they possibly can, and also to try to give a bit here and a bit there to show to the public that they are trying to carry out their election promises. But, as far as I am concerned, I must say that I am highly disappointed with the manner in which the Government are proceeding. I do concede that at present the Government have very limited financial resources. With 12 crores of rupees, they have tremendous problems before them. But that does not deter me at all from saying that I am disappointed. If I had been the Finance Minister of this Province, I would have looked at the problem from quite a different standpoint. Let us find out the reason why our revenue is only 12 and not 24 crores. Let us find the root cause of it and then try to meet the problem and improve upon it. The root cause of the present miserable revenue of 12 crores for the province of Bombay is because they face the problem in a spirit of nervousness and try to please everybody. They do not see the whole problem from a practical statesmanlike point of view. Sir, if they continue in a spirit of nervousness and by pleasing everybody, in the end they will be displeasing all. Sir, the Municipal Corporation of

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Bombay between Colaba point and Mahim is able to collect 3 crores 30 lakhs and over, and does so many things which the Government of Bombay have failed to do. Sir, the main cause of the want of revenue is the country's poverty. Sir, we had been always blaming the bureaucratic Government that they kept the masses illiterate and that they were not helping actively the agriculturists. Sir, agriculture is the mainstay of our country so far as the present and the near future is concerned. What has the Government which is now in power done with regard to agriculture? Why does it not meet the programme very boldly? It has got no scheme, neither has it foreshadowed any scheme. I have tried to read as far as I could with great attention the Finance Minister's observations under the heading of "Irrigation" in his budget speech. Now, his answer is that irrigation pays only 3.68 per cent. That is how I have worked out from his own figures. He admits that our irrigating canals are defective and a committee is investigating how they can be of best advantage to our agriculturists. If you put 2 and 2 together, what do we arrive at? In this case we arrive at the fact that in spite of the defective irrigation, it pays a net income, after deducting every expenditure, of 3.68 per cent. and naturally if the irrigation system is planned out on a more modern and scientific line, and a complete programme is taken up of capital works and by raising loans in sufficient quantity, we shall be getting much more than 3.68 as the net revenue. Supposing we get 5 or 6 per cent. net revenue out of it, there will be sufficient money to pay the loan which can be raised today at 3 per cent. to pay the interest and also to provide for the recurring charges. Has the Honourable the Finance Minister got any scheme? Has he come out with any scheme on these lines? Not at all. I say he does not face the problem in a businesslike way.

The other point is, the agriculturist is working in a most primitive manner on his land. In some cases he has not the necessary money and in some cases not the ability or the desire to work with machines. In America about 60 years ago the problem was similar. Today America is the most cultured and advanced agricultural country of the world. Sixty years ago, the American farmer was against machinery of any kind as much as our agriculturists are today, but the Government of America met the problem very boldly. The American agriculturist was immediately given the necessary education and he was given all possible help in connection with agricultural manure, agricultural implements and agricultural machinery, and all such provisions were made. Where is a programme of that character from the Finance Minister on the opposite representing the so-called Kisan party, the agriculturists? There is no such programme. There is only a *pansupari* business all round. Sir, I am highly disappointed. Last time when I criticised the budget I did not take up the position strongly because I knew that time was required for consideration of all these schemes. Now, however, I must ask the Government "where are you going?" Sir, instead of improving their revenues, they are, out of the 12 crores, destroying 3 and

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a half crores on a prohibition programme of a very doubtful utility. They are going in a wrong way. The drink evil is not such a great drawback as the illiteracy of the masses. Cure the illiteracy of the masses and the drink problem will diminish to a large extent. In pursuing this prohibition policy, I submit that they are launching on a useless or a dangerous programme, and in addition they are wasting the already feeble resources that they have. Sir, the Honourable the Finance Minister may laugh, but I presume he knows that he laughs most who laughs last, and there will be a time when he will not be laughing. Sir, I do not say that this drink evil should not be combated, but I suggest that it should be combated in a moderate manner and not in a manner or method of a fanatic. The Government are taking it up like a fanatic and not as a practical man of the world. Sir, this evil does exist in certain classes of industrial labour and you may also find it in certain classes of agriculturists. I therefore suggest that instead of trying to capture a city like Ahmedabad or Bombay,—it is trying to put the horse behind the cart and trying to waste money and efforts—they should begin it from small villages. This is how I look at the problem and I really feel and I say that this money is being frittered away in a fruitless cause, in a cause which is far subordinate to the other cause, namely, the cause of the illiteracy of the masses. What have the Government done with regard to the illiteracy of the masses? They have only provided about 3 lakhs, and undertaking the additional risk of incurring the further loss of one crore more on prohibition, they say they have no money. Then they say “We shall rely upon voluntary efforts and public donations.” Supposing the old bureaucratic Government were sitting on the opposite benches and my Congress friends sitting on this side, would they have accepted such a proposition? Would they have said to the Finance Minister who would have been of the I.C.S., cadre, “Yes, you are right; we will support the Government in not spending large sums of money on education, and particularly on mass education”? There would have been a flare up. There would have been long speeches from these Benches. The nationalist papers would have come out with big headlines. And now the nationalist Government when it has come into power shirks—I say shirks—the whole problem of mass education and talks about experiments. I submit these are not times for experiments.

2-30 p.m.

We have passed that stage long before. We have come now face to face with realities. Are you going to help the masses or not? Are you going to give them a chance to become independent wealthy agricultural people till they can help you to double your revenue from 12 to 24 crores? If you are not, you have no business to be in office. I say that in so many words, because I do feel very much about it. I feel that this great agricultural country needs all the care of any Government, national or anti-national or un-national, and the Government that is in power must be forced to take up the Kisans and the Agriculturists by the hand and to help them in the correct, scientific and the modern way. Nothing has been done. You can very easily help the flotation of a number of large land mortgage

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banks. We have already got one land mortgage bank very nicely started by my friend, the late Sir Lallubhai Samaldas. It is just beginning to function. The interest on the debentures has been guaranteed, not by this Government, but by previous Government and the previous Legislative Council. Why not start or encourage to start a large number of land mortgage banks, guarantee the interest on their debentures yourself and ask the land mortgage banks and encourage the farmers to join into co-operative effort, to till their soil, give them irrigation, the canals on modern system, teach them, employ your men and your own officers and so-called volunteers, if you can get them, employ them to go and to lecture among the illiterate agriculturists, show them how to use the machines, give them the machines, either at your own expense or easy credit. You give them the machines and you guarantee to teach them. The result will be that these agriculturists will be able to get sufficient money to pay you larger revenue and at the same time repay by instalments all the monies borrowed from the land mortgage banks. As to the agricultural indebtedness, what have you done? The sowcar rules supreme, he can charge exorbitant rates of interest. What have you done to declare a moratorium of some sort? Why do you say that it is impracticable? I will show you methods by which it can be done. The down-trodden agriculturists are working in the field like so many animals, all the time domineered by this country sowcar, just as if a butcher holds his knife over the heads of the cattle and though you who have come into power now do not lay down a programme and say how you are going to do it. Last time you passed a small holders Bill. It was nothing but a sort of make-believe that you are doing something for the agriculturists. Do you think that any practical businessman thinks that you are mending the position of agricultural indebtedness by this Act? There is nothing in the Finance Minister's speech which contains definite promises of doing this and there is no plan or programme. We are told that the schemes are being considered, but there is nothing under the heading of Irrigation Works to show that there will be planned out an irrigation scheme of so many crores for which loans will be launched, that this will be the plan on which it will be worked and that this is how the agriculturist is going to be helped. There is no plan to show us how the agriculturist is going to be helped with new machinery and scientific and up-to-date manure and agricultural implements. Nothing at all. All that is very disappointing to a person who has tried to study out of sheer sympathy for the agriculturists the problem of agricultural finance. I have been reading books over books to find out how our agriculturists could be helped. I have had the reports or bulletins recently issued by the Reserve Bank Agricultural Research Department where there are also first-class suggestions. But what has the Government been doing? All the researches as well as all past experiences are there. You have experts perhaps today, whom you can call for by putting your head out of the window. What have you done?

Mr. DADUBHAI P. DESAI: Are not the Bulletins discouraging enough?

Professor SOHRAB R. DAVAR : The bulletins simply say that the funds of the Reserve Bank cannot possibly be used for helping the agriculturist because of the framework of the Act, but that does not mean that you as a Government cannot help them. Mr. Dadubhai Desai has actually demanded on behalf of the agriculturists, irrigation schemes, times out of number, in this and the previous Council and I have admired him and thought that there is at least one gentleman that has seen to the economic side of the problem. Now he sits with the Government and I would ask my friend Mr. Dadubhai P. Desai to very kindly see that these officers help the poor agriculturists.

Now let us see one other side of the question. In one breath we are told that practical education is required. In another we are told that we have no money. In the same breath we are also told that we will only make grants to schools and not have Government schools. We are now suddenly informed that the Deccan College is going to be revived by the Government, they have already laid out money for running it and they are converting it into a provincial separate college for arts and science. As far as the question of Poona having a separate university is concerned, I have nothing to say against it. In fact in the last session I was one of those who urged the Ministers opposite to kindly take it up, but where is the necessity of planting a Government college in Poona at Government expense? There are first-class colleges, one run by my friend on my left (Principal Mahajani), the Fergusson College, which is the pride of India. There are other colleges equally capable and no Government college will come even within miles of it, and still you want to fritter away money on so-called science researches, when the agriculturists are starving for money for their education and you are not tackling the mass education problem saying it will be done by voluntary effort. Where is the guarantee of voluntary efforts forthcoming? To say that Government does not propose to spend money itself, because it has not got enough money but turns to voluntary efforts to do so is simply negation of effort, it is simply trying to throw the problem on the ground, and I am surprised that that is being done by the Congress Government and the national Government for which I have so much respect. I must therefore, as a nationalist myself, ask them to look at the problem more seriously because not only the agriculturists, not only the kisans, not only the red-flag men, but even conservative nationalists like myself will criticise you and say to you, you are not going on the right path, just as I must criticise a brother when I find that he is not doing it. That is the sense in which I am offering this criticism to my friends on the opposite side and I hope that in the next budget programme they will see some more light, they will wake up from lethargy, they will shake out this nervousness, I believe, and tell those people who do not deserve help: Wait, your case will be heard next. The first and foremost case is the case of the country, namely, the case of the agriculturists. The prosperity of the agriculturists will reflect on the industry. Therefore I say to my friends, your attention ought to be focussed on the agriculturist. You will see it is being done. I say that I do not see any signs. I do not deny that you are taking half measures, but 1/100 or 1/1,000th measure in that direction.

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You are taking some measures just to show that you are doing something, but you are not going about it with a complete programme. All other interests are secondary to that of agriculture, industry and commerce. Your commerce will raise your country to the height to which America or England or any other great commercial or business or industrial country of the world stands. Your country and my country was at one time the richest country in the world. Why is it not so today? How long are you going to keep it in poverty? You say it was so because the East India Company and the Europeans took away all the wealth. They did take away all the wealth, but that was the fault of our ancestors. We are here now. You are here and I am here, and I say to my friends let us put our heads together and see that we raise it back to that greatness to which it rightly belonged. You are not doing any effort, in my humble opinion, and when I say that, I have no quarrel with you. I want you only to go faster in a serious way.

Then there are new avenues of taxation Government is searching about. It has searched for a long time and up to now nothing has been done. We are told that taxes on sales shall be taken up. Evidently the taxes on sales were first conceived as far as India is concerned by my friend Mr. Jamnadas Mehta, when he started making his own budget. The present Finance Minister evidently was infected by that idea. Immediately in his first budget speech he referred to some taxes on sales. When my friend Sir Currimbhoy Ebrahim suggested to him certain taxes on sales he told him in my presence that they were impracticable. I tell him that they are not all impracticable, if you consider the question with care. Of course you will have to displease people, but when you are going to tax people you must displease somebody. We have to look at the national problem from a national standpoint and not from a mind suffering from nervous trouble. We have got to say to the people we are sorry you have got to pay more. There is a lot of trouble caused against the Government with regard to the Tobacco tax. I am entirely in favour of a tobacco duty and it would be consistent for Government to levy a heavy duty on tobacco, because they say that they do not want liquor evil. The tobacco is an evil too, but not among all but among a certain section. We have no right to punish others for the sins of a handful of people. Tax the tobacco of course, because it is not sufficiently taxed. In other European countries, tobacco is very highly taxed and you will get a rich harvest. But when I say that, I cannot help stating, as a member of the Municipal Corporation of Bombay, that you have done it a great injustice by depriving it of five to six lakhs of rupees in tobacco tax. It is the unkindest cut of all because it comes from the National Government. If it came from the bureaucratic Government, not only we would have shouted, but we would have asked you to shout and you would have joined us, because any stick was good enough for the bureaucratic Government of that time. But now you yourself are doing that injustice to the great civic corporation which is doing its duty in a way that you yourself cannot do; that great civic body is spending 33 to 34 lakhs of rupees on primary education, which problem you are shirking.

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We have got primary and secondary education problem in hand. We have made it compulsory in two wards and we are trying to capture the third ward. Between Colaba Point and Mahim, as I said before, we are spending 34 lakhs of rupees on primary education. What are you doing? What are you going to do? Supposing we tomorrow tell you that we shall also rely upon voluntary efforts and donations and save our 34 lakhs of rupees, what would you say? Would you agree to that? Here is an offer. Would you not jump up and say that the Municipal Corporation is not doing its duty? And I would agree with you that that was so. The Municipal Corporation would be wrong if it did that. Again, the problem of even this city's primary education is yours, not ours. First it is on your shoulders. You are not sharing the burden, the Corporation of Bombay is doing that single-handed.

Again, there is the problem of medical relief and hospitals. We are running our own hospital at tremendous expense and are also running a college of medicine, because the Government Medical College and the Government hospitals are too small and insignificant to meet a great and growing city's demands. What have you done for additional Medical relief yourself? What are you doing in that direction? Why are you starving that great civic body of its legitimate share of tobacco duty? We took up the Improvement Trust of Bombay, which was a white elephant involving a loss of 22 lakhs a year, and a burden upon the Bombay Government's revenue. We have taken it up, and the condition was that you would help us in certain proportion. We bore the losses all these years, and now you want to take away our 5 lakhs. Why? Because you are short of money. Is that the way to treat a Corporation, your own civic body, running on the most democratic lines, paying to you the largest amount of taxes? I should like to know from the Finance Minister how much of the 12 crores that he gets from the Province comes from Bombay.

An Honourable MEMBER : Very little.

Professor SOHRAB R. DAVAR : A good proportion. Bombay is paying heavily in taxation, heavily indeed. Three and a half crores it pays to the City Municipal Corporation. Then there are all sorts of other impositions. The city is called upon to make large donations. When you want money, you go to the cloth market or the Stock Exchange, where the simple-minded, generous, patriotic nationalist brethren of mine in the mercantile line help you freely. They cannot help you with more, they cannot help you for ever, unless their own business is flourishing and unless their industries are kept running. They get money out of trade, industry and commerce, the improvement of which will depend upon your agricultural buyers. But the agriculturist is neglected, and that is the point I want, as far as possible, to rub into the Government's mind if I can.

Of course, my honourable friend Sir Currimbhoy talked about professional tax and electricity duty. I have got my own opinion about the

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electricity duty and also about the professional tax. We do not want an additional income tax brought in by the back door in the name of professional tax. Perhaps Sir Currimbhoy does not know that a small professional tax is charged by the Madras Municipal Corporation, and if the Bombay Government wants to take that up we shall protest against it. There again they would be interfering with a legitimate source of our Municipal revenue. It is a municipal tax. The entertainments tax is our municipal tax, but the Government has snatched it away, and I say that if you take away the professional tax you will be again raising a cry of protest from the Corporation. What I feel most as a corporator, as a member of the standing committee of our municipality, is that you did not even ask for our opinion before you cut off our original quota of the tobacco tax. You could have at least allowed our side of the case to be put before you. I therefore say that I am not at all satisfied with this year's budget. I repeat that it is an amicable budget. It is the budget, not of a bold financier or a bold organiser and administrator who plans out on bold lines, and says "this shall be done". It is the budget of people who are out to please everybody, who are nervous and looking at everybody's face whether everybody is pleased. Thus they have frittered away resources in small objects and have not come out with a bold scheme. I am sorry to have to say that. I say that as a nationalist, and I claim to be as big a nationalist as, if not a bigger nationalist than, yourself, though I do not wear the same uniform as you do. If I was in your uniform and a member of your party, I can assure you you will have daily tiffs with me in your party meetings, and perhaps you would get so tired of me, you would call me a socialist and give me a back seat. You look at me in my present dress and perhaps think I am not a nationalist but an aristocrat. I am a very humble business teacher, born of a business family and I hope to remain a humble business teacher and a nationalist all my life, and I hope my honourable friends in front of me will take my remarks, which are absolutely friendly remarks, in the spirit in which they are made. I might have shouted, because I am in that habit, but my remarks are sincere and come from a sincere heart, from the heart of a friend of the Government, and I hope they will be taken in that spirit.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar): Sir, I congratulate the Finance Minister in presenting a budget which, if nobody will praise, nobody need condemn. The budget proposals in fact neither help much nor hurt much, and so they do not deserve to be called the most paltry budget proposals, as one of the most uncompromising critics of Government has said, nor are they the best under the circumstances, as one of the supporters of the Government has averred. There is nothing in fact in the budget for one to enthuse over, and as it is a fashion to describe the budget in single syllables, I would call it a stop-gap budget.

There is no attempt on the part of the Honourable the Finance Minister to formulate a scheme or draw up a programme extending over

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a period of several years. There is, on the other hand, a palpable show of the Congress Ministry having attempted to keep the pledges given at the time of the election. They seem to say "Did we not promise a reduction of the land tax, water supply to villages, rural uplift, encouragement to Ayurvedic and Unani education and agricultural and co-operative improvements? And here, gentlemen, are so many rupees for this, that and the other thing."

When the Honourable the Finance Minister was framing his budget, his eye was not on any schemes of progressive improvements of the conditions of the people, but on so many items to which the Congress was pledged. "The aim," says the Finance Minister in his speech, "of every proposal in the budget is the aim of the Congress". This pledge-conscious Finance Minister sees so many different demands gaping at him, and he stops them or tries to stop them by giving any monies that he can lay his hands on. And if I have to congratulate the Finance Minister on anything, I congratulate him on his great good luck, in that he has got that money ready at hand.

A windfall of Rs. 40 lakhs in 1936-37, a surplus of Rs. 10 lakhs instead of the calculated deficit of Rs. 18 lakhs, and a gift of Rs. 27 lakhs from the Central Government are the monies which the Finance Minister has drawn on, monies which, for all we know, will not be repeated year after year. The items of expenditure, therefore, which have necessarily no past lack a future also.

The Finance Minister in drawing up his budget has ignored the fundamental law of framing budgets, that you cannot depend on non-recurring revenues for recurring expenditure. He has had a gambler's luck, so to say, and with his recklessness he proposes to throw away sums which he has done nothing to get. His motto seems to be "Let us live today. Tomorrow will take care of itself."

Turning to the proposals, one finds that the instinct of self-preservation and not service was uppermost in the mind of the Finance Minister when he proposed a grant of an expenditure of Rs. 25,000 for preference to Indian goods and Rs. 32,000 for the All-India Spinners' Association. Is this, Sir, not the same Association which is responsible for the absorption of a large slice of what was once known as the Tilak Swaraj Fund? One is surprised to find that it is necessary to bolster up this institution, the nature of whose activities is supposed to be not only economic but such as to make even primary education pay for itself. The All-India Spinners' Association has lived long enough, and if it has not yet developed sufficient vitality to continue to live on its own, no amount of expenditure on a parasitic institution of this kind will be justifiable.

The expenditure of Rs. 7 lakhs by way of restoring the grant to the Ahmedabad municipality is of the same nature as the return of the lands of Bardoli farmers. But even here Government could have spread this restoration over a number of years and could have paid by instalments, thus saving some money for other pressing needs.

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When we turn from this very generous treatment of the Ahmedabad municipality to the cuts that are being proposed in the grants to the Bombay Corporation and to the Local Boards, we are amazed at the harsh and illogical way in which Government propose to treat these bodies. In the case of the Ahmedabad municipality, there was no binding on the part of Government to restore the grant, and yet we find them all too eager to do it, that they should pursue the illegal course of breaking an honourable contract with the Bombay Municipal Corporation.

In the case of local boards, the arguments advanced by the Finance Minister for a cut in their grants are absolutely lacking in convincing. If the local bodies are not exerting themselves to tap to the utmost their own resources, by all means insist on their doing so, but a cut in their grant is no means of getting it done. You could have insisted on their tapping to the utmost all the resources at their command. I have been a member of a local board for a number of years, and I can say with knowledge that there is no source worth the name which the local bodies have not tried to tap, unless of course they found that the cost of collection of the tax was more than the money that it would bring in, where the remedy was worse than the disease. But that is not the point to which I wish to draw the attention of this honourable House. I would like to know how the Finance Minister justifies the giving of water supply grants to these bodies when he proposes this sort of cut in the grants of these bodies. If Government wanted to put pressure on these bodies to have their resources tapped to the utmost, the way was quite simple. Government could have made their grants conditional. They could have told the local bodies that unless and until all the resources were tapped to the fullest extent, they would not get a grant,—a trick, which the local bodies have always found to pay. The village Panchayats are given grants on the same lines, and many a village is getting wells and other amenities given to it on the same conditions. The Finance Minister does not seem serious to serve the agriculturists as he says he wants to do, for if it were not so, he would not have cut the grants to the local bodies whose primary duty it is to serve the agriculturists directly. On the contrary he ought to have increased their grants.

Turning from the Finance Minister's proposals for expenditure to his proposals of taxation, we find him in not a very happy or comfortable position. When the last Tobacco Bill was before the Council, the then Dewan Bahadur Latthe was the loudest in his condemnation of that Bill. What do we find him doing today? Well might the rustic, whose language is not very polished, ask "Now that he has turned his cap, has he turned his coat too? Was the Finance Minister driven to this extreme that he proposes to tax the very people whom he wants to serve? Could he not tax his present friends, the rich industrial magnates?" No, Sir, he will not do it. He will not tax them who have helped him carry on costly pageants like the one at Haripura—I quote the words of Mr. Jedhe, the President of the Maharashtra Provincial Congress Committee—to keep his party in power.

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The second proposal of taxation, the increase in the tax on racing, I welcome as a step in the right direction. People who have money to gamble with, really have money to spend on better purposes. I congratulate the Finance Minister for the courage he has shown in admitting himself to have been in the wrong when he discountenanced such a proposal at the time of the last budget. The Finance Minister, on the 17th of August asked, whether the whole policy of legalising betting and deriving revenue from it has any advantages which might be supposed to be counterbalancing the disadvantages which every scheme of this kind is bound to involve, and he has answered it by levying the tax. I congratulate him.

There is already a Bill before the House to control money-lenders, and incidentally to derive a decent revenue from the licence fees. Whatever the merits of the scheme, the Finance Minister will certainly be supporting it, relegating to a convenient oblivion his hard working woman who could lend her paltry savings of a frugal life time to earn a little interest. I am glad for the change and I hope the same moral courage which the Honourable the Finance Minister has shown in adopting these proposals he will evince in admitting that he has outgrown his prejudices of six months ago.

3 p.m.

I am glad Government have launched on their policy of prohibition although not on a scale which would have brought it about in the stipulated period of 3 years. But we are in an expansive mood, ready to have a short memory and forget all about it. I should like to point out, however, that the Finance Minister has failed to tap an additional source of income for an additional source of expenditure, without which the scheme is bound to be a failure. I warn him.

I am glad that the Finance Minister has restored grants long overdue to the school boards and removed the injustice which had been done to them. Nothing substantial, however, has been done towards either the expansion or compulsion of the primary education or about the removal of illiteracy. These are cankers which are eating the heart of the Province and we can ill-afford to wait while nostrums are being manufactured. Educational boards are not going to help and the sooner we drop talking of drastic changes and revolutionising systems of education, the better shall we be able to remove illiteracy from the people. Now that I am talking of education boards, I should like to enter a caveat; let Government make it compulsory for members of these boards to be educationalists first and faddists and *khadists* afterwards.

This reminds me of a character in one of the popular Marathi dramas who was so devoted to drink that he would not be treated by a doctor who was not a drunkard himself; and when such a doctor could not be found he preferred a drunkard to treat him who was not a doctor to a doctor who was not a drunkard.

In the restoration of the Deccan College the Finance Minister has respected particularly the sentiments of the Maharashtrians, for which he deserves to be thanked.

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Before concluding, I have but one reference to make to a very unconstitutional, albeit unintentional, proposal of the Honourable the Finance Minister for a grant of 30 lakhs of rupees for what not even the Finance Minister himself knows. We have always quarrelled about the unconstitutional manner in which certain items of expenditure have been preserved in the Government of India Act of 1935. But the Finance Minister has exceeded the ingenuity of those Constitution makers. We at least know what the money is for on which we are debarred from expressing our opinion. But here comes our democratic Finance Minister for a grant of 30 lakhs of rupees equally non-votable in this House and goes one better when he tells us that even we are not to know what it is for.

The apologia which he has to offer is only an insult added to injury. His arguments can be applied to the whole of the budget and the Finance Minister may not have to submit a detailed budget to the House. Is this the intention of the Finance Minister?

Sir, I have done. The Honourable the Finance Minister was very impatient of any criticism of the proposals which had no constructive suggestions, and I have been careful in not deserving his wrath on that account. I have suggested not to cut the local boards grants, but to make them conditional; to spread the restored grant to the Ahmedabad Municipality over a number of years and to utilise the money for the spread of education and not to tax tobacco. I would further suggest now that he is hardened to accept the tainted money from the races which he can easily double or even treble. He may tax the newspaper crossword puzzles and similar competitions and make decent revenue out of it. And if need be, he can even go to his friends the rich industrialists for more funds and leave tobacco the poor man's luxury untaxed. I have also suggested to raise the board of education from the low level of party politics and to cut out grants for purely party fads. There are various items which I have purposely not touched as I wanted only to indicate the lines on which the budget can be improved, and I hope the Honourable the Finance Minister will accept my suggestions in the same sporting spirit in which I have made them.

Sir, I have done.

Mr. S. C. JOSHI: Sir, at the outset I desire to express my feelings of deep disappointment at the attitude of Government in not implementing the assurance, given to this honourable House on the last occasion, of simultaneously presenting the budget to this honourable House and to the Legislative Assembly. Last time when the budget was presented long after it was presented and even discussed and partly voted upon by the Assembly, I had raised a point of order and on that point of order both the Honourable the Finance Minister and the Honourable the Prime Minister had given an assurance to this House that there would be simultaneous presentation of the budget in both the Houses following the analogy of the practice followed in the Central Legislature. I would

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quote only one or two sentences from the speech of the Finance Minister. This is what he said on that occasion :

" I may assure the House that I would prefer that both the Houses should receive the budget at exactly one and the same time. The practice in the Central Legislature, where there are two Houses, for instance, is that the Secretary of the Finance Department, who is a member of the Upper House, generally presents the budget to the Upper House, and at the same time the Finance Minister of the Government of India presents it to the Lower House." (B. L. C. Debates, Volume I, Part 3, page 27).

Similar is the assurance given by the Honourable the Prime Minister. This is what he said :

" In future, we shall adopt the practice which has been followed in the Central Legislature, so that on very nearly the same day on which the budget is presented by the Finance Minister in the Central Assembly, his Parliamentary Secretary or some other Minister or his Parliamentary Secretary presents it in the Council." (B. L. C. Debates, Volume I, Part 3, page 29).

I submit that there is no simultaneous presentation of the budget this year. This budget was presented to the Legislative Assembly on the 25th of the last month and it was presented to this House on the 5th of this month. There was a gap of about 8 or 9 days. The explanation given by the Honourable the Finance Minister for this is far from satisfactory. If it was his intention that he should be present here to hear the general discussion we do not find him to do that ; if it was his intention not to trouble this House because there was no work, then he cannot guarantee that the members of this House will not be kept waiting any longer by calling them only 8 days afterwards. I think it is a healthy practice and a convention must be established that the budget be presented to both the Houses simultaneously. I do hope that the assurance that was given on the last occasion will be fully implemented next year.

Now, so far as this budget is concerned, it is no doubt the second budget which the Congress Ministry has presented. In fact, however, it may be said and looked at as being the first considered budget of the Congress Ministry. The last budget was prepared and presented within a short time and the time at the disposal of the Congress Ministers, after assuming the reins of office, was only about 2 or 3 weeks, still on that occasion, the Honourable the Finance Minister in his statement of the policy of the Cabinet had made a number of announcements and had given many promises and assurances on matters of vital importance. I think it would be much better to study the present budget in the light of those declarations, assurances and promises. It is only then that we shall be able to correctly value the present budget, and we shall be able then to say exactly how far the promises and the assurances have been carried out. We shall also be able to know how far the amounts that were allotted in the current year's budget were actually utilised. We shall be able to know the extent and the manner by which the Government have proposed to find out the financial schemes that were outlined then. We shall also be able to know exactly how far the new problems and new schemes have been prepared and launched

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upon by the Government, or whether there has been a going back upon the declared intention, the declared policy and the declared promises and assurances.

It is in this light that I have tried to study this budget and at the outset I would like to state very frankly that after such careful study of the budget, I have been very sadly disappointed. My opinion of the budget is that it is a hollow budget; that it is unsubstantial and that it is most disappointing. It cannot be called to be a budget of the masses. What the budget seeks to do is to distribute the extra available money of over a crore of rupees for different purposes. A major portion of this extra available money has come out of fortuitous circumstances. Out of 1,16 lakhs which are intended to be spent, we find that the Government have got 27 lakhs of rupees as a contribution of the income-tax from the Central Government, which was not expected at the time when the last budget was presented. Similarly, the Government during the current year have got increased revenue of Rs. 12½ lakhs from excise which is according to the present Government "sinned money". The present Government have also been fortunate in getting Rs. 9 lakhs more by way of stamp revenue. Then there was a surplus of the years 1936-37 and 1937-38 to the extent of Rs. 51 lakhs. Then there has been saving of Rs. 10 lakhs due to the intended withholding of contribution to be paid to the municipalities and local boards. I submit that this is a wrong claim which the Government is making. Further, the new amount which Government propose to take from the people by way of taxation is to the tune of Rs. 8 lakhs, Rs. 5 lakhs being the income from the increased charge on electricity of three-quarters of an anna instead of one-half anna and about Rs. 3 lakhs by way of the tobacco tax. In this way Government got more than a crore of rupees and it was the question with the Government how to distribute it and they have made efforts in this budget to distribute the amount in a way, of course, to which no serious objection could be taken and some of the allotments are quite proper allotments and certainly the present Government deserve congratulations for that distribution. But in that sense it may be called to be a "good housewife's" budget. It is not the budget of a financier of a province like Bombay. The Finance Minister himself has very rightly described in his budget speech which he made in the Legislative Assembly that the budget is an index of the Government's policy. Now let us see what are the Government's policies as they are indicated in this budget.

I will take first the question of land revenue. Now what do we find? As regards the land revenue policy enunciated in the statement made last year in the Bombay Legislative Assembly, this is what the Honourable the Finance Minister said on that occasion. On page 52 of the proceedings he says :

"It is hardly necessary for me to say that the most pressing demand we had to meet was in respect of relief to the long suffering ryots in our province."

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He proceeds to say :

" Government have decided to sanction permanent reductions in land revenue in cases where for various reasons that demand had become unbearable."

Now what do we find in the present budget ? The same Honourable Minister says in the present budget statement on page 13 as follows :

" We proposed to give a permanent reduction in land revenue in excessively assessed areas by a sum of Rs. 5 lakhs. All attempts to allocate this sum for the intended purpose, however, failed in the absence of definite principles on which this permanent reduction could be made."

Is it not going back upon the declared policy in the matter of land revenue of this Government ? Having admitted once in unmistakable terms that the land tax, the present assessment, is most unevenly distributed and that it requires to be overhauled further, having said definitely that they had set themselves to the task of overhauling it, then to turn round immediately and say : " we found difficulties in the way and we have abandoned it ", is not proper.

I will take the next item, namely, the indebtedness of the agriculturists. What has the Honourable the Finance Minister said on the last occasion in this behalf ? On page 53 of the proceedings of the Legislative Assembly, he says :

" Government fully recognise that these measures do not constitute adequate relief to our agricultural population. The question of improving the entire land revenue system in this province has got to be tackled without any avoidable delay. The even more difficult problem of the ever-growing indebtedness of the agriculturist has also got to be faced, and faced boldly. These problems are already engaging the attention of Government, and if they could not hope to place before the House their full programme of economic reforms within the course of two weeks, they feel confident that within the course of the next few months they will be able to submit their full scheme to this Legislature. Government do not believe in half measures....."

I lay emphasis on the statement : " they feel confident that within the course of the next few months, they will be able to submit their full scheme to this Legislature ". Is the full scheme placed before the Legislature or has it been nipped in the bud ? No reference to the promised scheme has been made by the Honourable the Finance Minister in his statement in the Legislative Assembly, while presenting the present budget. Do we not expect the present Government to state exactly how they have dealt with this problem, whether their enquiries have not been complete, whether their enquiries have met with certain difficulties or what more time they will require to enquire into the matter and how they propose to deal with this matter ? Certainly we expect, as any reasonable and sensible man would expect, some light thrown on an assurance given in such clear and unambiguous language.

Then let us turn to the problem of rural economics. Here again I will refer to what the Honourable the Finance Minister said while presenting the last budget. At page 54, this is what he says :

" Government intend shortly to appoint one or two committees to advise them in this respect, and the task of formulating a comprehensive programme to deal with rural economy as a whole is being entrusted to a sub-committee of the Council of Ministers whose duty it will be to attack the problem from every side."

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We have not heard of any committee being appointed for the purpose of advising Government regarding the comprehensive programme to deal with rural economy as a whole. We have not heard anything about the sub-committee of the Council of Ministers that was announced to be appointed for the purpose of advising Government in these matters. Now I ask with all sincerity, what is the use of merely making statements like these and later on forgetting them or not making any reference to them or not giving any definite reply to what has been done with regard to them? We do hope that the Government, the Honourable the Finance Minister, as well as his other colleagues, when they will speak in this House, will give a detailed reply and detailed information on this matter also.

Then I will take the question of the village water supply. Last year, the Honourable the Finance Minister said at page 54 :

"Provision for the supply of good drinking water in all villages is one of the most pressing of the needs of rural life. A sum of Rs. 10 lakhs has therefore been set apart for expenditure during the coming six months for providing wells and tanks to all villages in the Province, with special attention to the needs of the depressed classes. Out of the 10 lakhs provided for, the more urgent works will begin immediately, and proposals for meeting the remaining demands before another year is out will be included in the budget for 1938-39."

And what do we find in this behalf? There is an admission in the speech of the Honourable the Finance Minister in the Legislative Assembly on the 25th of the last month on page 15. This is what he says :

"The sum allotted in the last budget could not, I must observe here, be wholly spent for want of ready schemes and effective organisation."

"Wholly spent" may mean 9,00,000 have been spent or it may mean that only 9,000 have been spent or 900 have been spent and a larger portion still remains to be spent. Such a vague statement does not speak very highly of responsible men in the position of the Honourable Ministers. We want to know exactly what amount has been spent and what has not been spent.

Mr. SHANTILAL H. SHAH : 2,78,000 have not been spent.

Mr. S. C. JOSHI : I know, I have been able to find out from the Blue Book, but if you make a statement on the floor of the House, it is better to be precise, instead of leaving the matters so vague to be found from some books.

Then I will refer to another problem which has been declared by the Honourable the Finance Minister as being the "principal plank in the constructive platform of the Congress party", namely, the cottage industries. In the last budget a sum of 1½ lakhs was allotted for expenditure during the last six months for preparing exact plans and programmes and what the Honourable the Finance Minister had then said is as follows, at page 55 :

"The sum of Rs. 1,50,000 we propose to allot to cottage industries of unquestionable value; and when the time comes for expanding our work—I hope it will not be more than a few months before that time comes—"

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I am afraid the few months have not yet come,

"Government will be ready to provide adequate funds for this great work we all of us have in view."

Now, this is the principal plank in the constructive platform of the Congress Party for which a lakh and fifty thousand rupees were proposed to be spent during the last six months of the current year. What has been done with that amount? Has anything been mentioned by the Finance Minister in his speech? Has the whole amount been spent? If not spent, was it not fair to this House to give some explanation as to why the amount has not been spent? I find again from the Blue Book that about Rs. 92,000 out of a sum of Rs. 1,50,000 sanctioned for this item has not been spent. It has lapsed. I shall refer for this purpose to the Blue Book and from the Blue Book it is clear that this sum has not been spent. I will refer to page 77 of the Blue Book, paragraph 171. This is a paragraph dealing with industries. What is said there is this:

"The decrease of 99 in the revised estimate for the current year compared with the budget estimate is mainly due to (i) less expenditure of 2 under "Superintendence" on account of the post of the Senior Weaving Assistant having remained vacant for some time after the demise of the incumbent, (ii) saving of 92 under "Industrial Development" on account of the lump provision of Rs. 1½ lakhs for development of village industries not being expected to be fully utilised owing to the schemes for industrial development being sanctioned late in the year."

When this was the principal plank in the Congress programme, was it not desirable to make a mention of this in the budget speech? I submit that it was necessary to do so. This way of dealing with the matter indicates nothing but a side-tracking of the whole thing. This shows that it is merely a tall talk to say that we are for the poor, we are for the agriculturists, we are for the masses, we provide for them the cottage industries, we have sanctioned so much, we propose to do this much during the course of the current year. When nothing is done, we remain silent. I submit that some explanation on this ground deserves to be given to this Honourable House.

Then, I will refer to another item, namely, prohibition. In the statement of the last year the Finance Minister had devoted a whole paragraph to outlining the scheme of total prohibition within the course of three years. But I am astonished to find no reference whatsoever to it in this year's budget statement. It is a most important thing, which is going to cause a loss of revenue to the tune of over 3 crores, more than 25 per cent. of the total revenue of this Province and which revenue will be lost completely during the course of the next three years. It is somewhat astonishing that the Ministry should be bent upon carrying out that programme, and yet nothing should be said in the statement submitted to this House in the course of this year! Not only is there the silence of the Finance Minister on this question, but we know that there has been increase in the income from this source of over 12½ lakhs. Last year the Finance Minister budgeted that there would be a loss of revenue to the extent of Rs. 2

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lakhs, but instead of a reduction of 2 lakhs, he has been able to get 12½ lakhs more than what he had expected to get. Is it prohibition with a vengeance, or what? One wonders whether the loss of revenue that is expected during this year, namely, of more than 27 lakhs, will turn out to be a profit of over some lakhs of rupees. If you want to carry out your programme of prohibition in the way in which you want and within the time you have specified, it is necessary to find out exactly what are the reasons which led to this increase of revenue, and what are the steps that the Government have taken or propose to take with a view to prevent the increase of revenue in the future. We ought to know that. I see that the Finance Minister and the Minister for Excise are both laughing. It may be that they may be aware of what is passing in their mind, but what is passing in their mind cannot be conveyed to the other honourable members of this House, unless they clearly give out their intention.

The Honourable Mr. A. B. LATTHE : I cannot speak while you are speaking.

Mr. S. C. JOSHI : I know the etiquette in this House as much perhaps as the Honourable the Finance Minister himself. I know that he cannot speak while I am speaking. But I know at the same time, as much as the Finance Minister knows, that it is he who has to make a statement on the finances. It is he who introduced the budget. It is he who at that time gives out what the balances are, and what the other particulars are. I expected him to make a detailed statement of all these items at the time when he presented the budget either in this House or in the Legislative Assembly. That was not done. That is my point. I am not complaining about his not speaking when I am on my legs. I do not expect him to do so.

I know there is the policy of prohibition and the methods and the steps that Government propose to take are mentioned in the Blue Book. I have read that carefully. Five or six steps have been mentioned, but even though they are mentioned there, do you not repeat them, emphasise them in a different form in the statement that you make? What I am saying is this : if you want to emphasise a particular thing, if it is one of the principal planks of your programme, and if it is one of the things in the forefront of your programme, then you ought to emphasise it, and you do emphasise in respect of other items in season and out of season. That is, however, not done in this case. I hope that my fears are groundless ; that the programme of prohibition has not been abandoned, that Government have not become lukewarm with respect to this prohibition programme, and that they will persist and persist in the same way and to the same extent as they wanted to do, or expressed themselves that they wanted to do, in the last budget session of this House.

Then I would refer to the other important programme in the Congress Ministry's plank, namely, the programme about Labour. The policy of the Congress Government in the matter of the uplift of the labouring

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classes was enunciated in its Press Note of the 17th of August 1937. We find a paragraph devoted to this part of the programme in the speech of the Finance Minister. Now I would like to take up item by item the programme as appearing in the Press Note of 17th August last and see what has been done or what is proposed to be done under each item. The first item is the settlement of the minimum wage fixing machinery to meet special requirements. No mention is made as to what Government have done. I feel that nothing has been done. I want the Government to say what they propose to do with regard to this item in the course of the next year. Or do they think that nothing could be done in this matter during the course of the next year? Is their silence on this item to be taken as their inability to do anything in the matter during the course of the next year? That point at least may be made clear. It is no use merely stating to the world that "this is our programme, and that is what we want to carry out." When? One does not know. You must be precise and clear and say "this is our programme, which we want to carry out in the course of the next year". Let us know exactly what you propose to do in the course of the next year.

The second item is control of house rents in cities. I am not aware of anything being done by Government in this matter. I am not aware as to whether Government propose to do anything in this matter. I have myself introduced a Bill for controlling house rents in this city. I do hope, this being the programme as enunciated and announced in the Press Note and as also announced in the Congress manifesto, the Government will support the Bill the first reading of which I will be moving in the course of the next few days.

The third item is relief or avoidance of working class indebtedness. If the only Bill that has been brought, namely, the Money-lenders' Bill is what is intended under this item, that Bill being merely for controlling the money-lenders, does not aim so much at avoiding working class indebtedness and giving relief to them.

The next item is of social insurance. Nothing has been done, and nothing is proposed to be done in the course of the next year also. No enquiry seems to have been started, or is intended to be started in the course of next year, as no provision seems to have been made in this budget for making any enquiry as to the possible schemes of social insurance in this country and in this Province.

The next item is about legislation for leave with pay during sickness. No doubt a circular was issued asking for the views of the various trade unions on this item. But we have not heard much about it later on.

Then comes the question of giving relief against unemployment. In the matter of relief against unemployment Government have mentioned many things. First comes the exploration of possibilities of alternative employment in home industries. We want to know what Government have done or propose to do in the course of the next year.

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Then come the schemes for extensive training of the unemployed. I am afraid nothing is intended to be done. This is merely a paper programme to be announced to the world, to say that the programme of the Bombay Ministry as announced in the Press Note is the best programme and supported by the Congress Ministries in the other Provinces and that it will be pursued not only by the Bombay Government but by the other Governments also.

The next measure in the matter of relief against unemployment is the collection of statistics of unemployment. There is no provision made in next year's budget for this purpose also. There is nothing to show what schemes Government intend to introduce for it or how the registration of the unemployed is to be accomplished. No explanation is given. Then there is the question of setting up of unemployment exchanges in important industrial cities. It is most disappointing and, if I may be permitted to say so, most disgusting to find the attitude of the Government benches. When a resolution to that effect was moved in the last session, Government opposed it and proposed an amendment that the consideration of the resolution should be adjourned. I submit this is one of the items in their own programme. Instead of pursuing and giving effect to that programme, that Government should come forward and should not even adopt or support the resolution that was moved by a private member of the House is most disappointing.

In the matter of unemployment, resolutions were moved and adopted both in this honourable House and in the Assembly. The resolution in the Assembly was moved by one of the members on the Government benches and by one of the members of the Government party, and it was adopted. Both resolutions for the appointment of a committee were moved and accepted by the House; they were passed without a dissentient voice, and yet we find that no provision is made for the expenses of this committee. Are we to suppose that Government do not propose to spend any amount and to appoint a committee for the purpose of making enquiries as to the ways and means of giving relief to the unemployed? What are we to understand? Paragraph after paragraph of the Finance Minister's statement is devoted to this thing and that thing. But nothing is said about the various points mentioned in the Press Note which was issued as early as 17th August last.

The next point mentioned in that Press Note is the amendment of the Factories Act to ensure better dining accommodation and adequate medical aid. We have heard nothing about it. Nothing has been mentioned—that it is under consideration or that Government desire or intend to introduce a Bill in regard to it in the near future.

The next item is the educational policy with special reference to the interests of the workers. Perhaps so many committees have been appointed in the matter of education and the burden of the Ministry has been merely shifted on to the various committees, so that at least nobody can accuse Government of doing nothing. It might be that I may not have studied very critically and carefully the terms of reference

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of these various committees that have been appointed. Perhaps it might be one of the terms of reference of one of the committees appointed that they should enquire into this question and report on it. I should like to know specifically to which particular committee this question of considering the educational policy with special reference to the interests of the workers has been referred.

The next question is the extension of the scope of the Labour Office. I complained on the last occasion, and in fact complaints are being made from time to time even in the past, that the extent of the present Labour Office is such that it cannot adequately and sufficiently cope with the work which is the legitimate work of the Labour Office. No provision has been made for giving more staff to the Labour Office. It is not possible for the present staff of the Labour Office to adequately deal with the various questions that arise and that have to be inquired into and dealt with by the Labour Office. Unless the Labour Office is expanded, it will be extremely difficult for these programmes as enunciated in the Press Note to be carried out and they will remain only on paper. Is it the wish of the present Government to give effect to them immediately or not? If it is their wish, then the staff of the Labour Office must be increased. The Labour Office must be in a position not only to make inquiries, to collect statistics, but it must be in a position really to study critically and carefully how the labour legislation can be drafted suitable to the conditions in India on western lines. We find that a draft Bill for the purpose of prohibiting or preventing strikes and lock-outs has been prepared. I am sorry to say that the Bill as drafted appears to be drafted by a layman. It is full of defects. Almost every section runs into as many paragraphs as 7, 8, 9, 10, 12 and 13, and it is difficult to make out what it means. Now, if experts are appointed in the Labour Office to draft labour legislation,—and labour legislation is absolutely necessary in order to give relief in these matters,—then only it will really be useful.

Then we find that there has been one item in the plank of this labour programme and that is about the provision of better housing conditions. Government seems to take credit for having provided about Rs. 4½ lakhs for this purpose. In making improvements to the Bombay Development Chawls now, I submit that the Government is taking undue credit in this respect for spending this sum of Rs. 4½ lakhs for the improvement of labour conditions. I do say, and I do so with all the sincerity at my command, that this money is not being spent for labour at all. If you want to say that this money is being spent for labour, then you can very well thank the past Government which had spent crores of rupees in building the Development Chawls and you may say that the present Government is also doing much for the labour inasmuch as it is repaying the bad fruits of the past Government in paying the interest and will continue to pay interest on those debts for 40 or 45 years in the future. Is it suggested that any amount that was spent, or that is being spent, or that will be spent for the loss that is caused by reason of

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this development scheme is for providing amenities to the labour? I challenge. I do say that it is not a question of labour at all. It is merely one of the follies of the past Government that have to be rectified in order that you may make out something from the gigantic white elephant schemes that were launched and carried out by the past Government. I may go a step further and say with diffidence in this respect that perhaps one of the reasons why these schemes have failed—there are other very cogent reasons also why these chawls have not been popularised—is partly because of the Congress activities, if not directly of the Congress, of some of the members of the Congress itself. I am not blaming them. If they have not been popularised and consistent and persistent efforts have been made to see that the people do not go there to live, and now you want to undo the things which are of the past and you spend something, can it be said to be a legitimate charge on labour? I am astonished to find such a pretence on the part of the present Government of saying and proclaiming to the world that we have done this in the interest of labour.

Then, what do we find next in the budget for labour? I might say a provision of one lakh of rupees for the social amenities for labour. This item is not legitimately an item of expenditure for the labour welfare. This is an item of popularising those chawls, the development chawls that are standing just nearby the place where the Congress held its session some years ago. These chawls have been lying vacant there and in order to popularise them you want to make certain alterations, to give additional facilities and you want also to provide social amenities by appointing certain people, by opening libraries, by doing various things; but they are for the general masses of the people that will be staying there. Is it suggested that these places will be occupied by labour and none else? If that is your intention, then why not start those schemes also, similar schemes, for the other places where the remaining six lakhs of the population of this city is staying? If you had done that, I could appreciate the scheme; but to say that we shall provide one lakh of rupees for the purpose of giving social amenities to the people who will be staying in these chawls is really a pretence of doing something in the name of labour while it is doing nothing for the labour.

Then, there is one other item which I cannot pass unnoticed in the matter about labour. We find that the pay of the inferior servants of Government in this city is too inadequate. Government appreciated it that it is too inadequate and requires to be improved. But what is the improvement that the Government have proposed to do? They have decided that the pay should be raised of these pattewallas, of these peons, of these inferior servants, by three rupees in the case of the new men and by 2 rupees in the case of the old servants—entrants as they are called. Now while giving an increase of 3 rupees or 2 rupees, by another hand, Government have snatched away the very benefit which these servants are enjoying for a long time and that benefit is of the house rent. At one time they were getting a house rent of 7 rupees. The

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past Government found that by bringing pressure on their inferior servants they might be able to compel them to occupy the Development Chawls. Therefore, what they decided was that those who would go to reside at the Development Chawls would get free accommodation. On the other hand, those who will not go will get a reduced house rent, that is, instead of 7 rupees they will get only 4 rupees. Some people did go, others did not go, even at the sacrifice of 3 rupees. Why? There must be very cogent reasons for this and perhaps the members on the Government benches, if they had been on this side, would have criticised or condemned Government and would have taken up the cause of these poor inferior servants and would have said, why do you bring this pressure on your employees? Why do you bring coercion on them? But now when they are doing it themselves, of course none of the members of that party will come forward and say that it is unjust. What is done by the present Government is this: that nobody will now get a house rent allowance that he was getting. He must go and occupy the room in the Development chawls; facilities will be given to him. In this way Government propose to bring undue pressure on their poor dumb subordinates, instead of treating them with kindness and fairness and justice. This is the way in which these poor people are being persecuted.

The mentality of the Government today is such that even the Honourable the Finance Minister could, in his budget speech, style them as menials. When the Government has shown so much solicitude for the Harijans, for the scheduled class people and they wanted, even against their wishes, to give them the name and statutory name of Harijans, why should they not call their inferior servants, inferior servants and abandon that absurd name, that heinous name—much worse than that of the depressed classes—namely, the menial? (*An Honourable Member*: Shall we call them Governors?) You can call them by whatever name you like. This is what the Honourable the Finance Minister says in his speech. At page 7 in the budget speech in paragraph 6, this is what he says about these servants:

“Government also intend that the menial servants in their various departments in the Bombay City will be provided.....”

Why not use a decent word? Why give them an inferiority complex by using such a disgraceful word?

What I am merely pointing out is that in the matter of labour very little has been done by Government and this particular budget, if looked at from that point of view, shows that the Government propose to do nothing except a few things that have been mentioned of merely extending provisions of the Factories Act or the Payment of Wages Act, and this thing and that thing, appoint committees to inquire into the wages of the workers in the textile industry. Of course, the appointment of that committee was a very right thing that was done by the Government. The interim report of the committee and the recommendations made by the committee are undoubtedly good and I most sincerely congratulate

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and thank the Government for not only appointing the committee, but for also accepting the recommendations of that committee, and I do hope that the Government will bring their full pressure on the millowners to accept the recommendations of the committee. But when you have done that in respect of one class of industrial worker, you must adopt and pursue the same policy in respect of others. You lack in that boldness and you have done nothing, and that is the complaint that I desire to lodge on this occasion.

I will take next the question of education. What is it that the Honourable the Finance Minister had said on the last occasion? This is what he had said, at page 56 :

" We have this time merely decided to allot an additional sum of Rs. 40,000 for special efforts in the interests of our brethren of the depressed classes, and two other small sums of Rs. 10,000 each for adult education and for physical culture. But this may be rightly considered a small effort in view of the stupendous magnitude of the task before us. Were we sure that we could obtain proper return for any additional moneys that we may immediately spend for education in our province, Government would have been ready to provide it even at the risk of accepting new burdens on the already heavily taxed people in our province....Government are at present devoting their most earnest attention to the reform of the machinery through which our common objective of universal mass education may be achieved....A more economical and yet efficient way must be found. Government will first apply themselves to this task and propose to provide for more expenditure as soon as the machinery is improved."

Now, undoubtedly I am alive to the fact that about 33 lakhs of rupees have been provided for as new items of expenditure on education. That is no doubt a very good thing and a laudable thing that the Government have done, but what about this machinery which was to be improved? Is this sum of rupees 33 lakhs, which has been provided for in the budget on new items, intended to be spent on the improvement of the machinery? I doubt it and I shall give the reasons on which I have entertained those doubts. I have carefully examined the various items under which these new lump sums for which provision has been made, for some in the Blue Book and for some in the budget speech itself. We find that 11½ lakhs of rupees are intended to be merely as restorations of the cuts in the grants to the local bodies. I do not think that it is intended for improvement of the machinery. For the existing machinery, the same amount was being paid. The local bodies were entitled to get that amount and it was reduced. It is being restored. The next is about building school-houses. I do not think that the building of school-houses is improving the machinery. One lakh for construction of school-houses; then 8 lakhs for primary education through voluntary agencies. Is the voluntary agency a new agency to be introduced? Were there not voluntary agencies imparting education in the past? Then there is a provision of 2 lakhs for adult education and libraries, 2½ lakhs for central vocational school, 2 lakhs for secondary schools, 2 lakhs for conversion of high schools into junior vocational schools, and 2½ lakhs for physical training, 7 lakhs to the Ahmedabad Municipality, 1 lakh to the Deccan College, and 1½ lakhs to the backward communities. I do not know exactly what part of this amount of nearly 33 lakhs is being spent for the improved machinery;

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or, are we to understand that as soon as improved machinery will be established the Government will come forward for additional demands for grants? That we would like to know.

I do not propose to take up the other items. The items that I have taken up are sufficient to indicate the way in which Government have declared their policies and given assurances and promises on the last occasion, and in what manner and to what extent they have proposed either to implement them or to go back upon them.

I would, however, refer to one more item by way of comparison, and that is with regard to the way in which Government proposed on the last occasion to meet the finances which will be required for these additional things which Government are bound to provide. What did they say about this on the last occasion? On the last occasion I think three things were mentioned as being possible for providing additional funds. One was retrenchment. The second was nationalisation of commerce and industries. The third was additional taxation and a change in the burden of taxation. Now let us see what has been the policy or the attitude of Government on all these three matters today or what they propose to do in the next year. In the matter of retrenchment, I find this is what the Honourable the Finance Minister said on the last occasion :

"Turning in the direction of retrenchment in order to finance our future schemes, our predecessors of the interim Ministry have told us that the possibilities in this direction are very few. We do not believe this. The need of retrenchment on a very large scale is urgent and we are determined to try our hands at retrenchment to the best of our ability. There is ample scope for reorganising our administrative work so as to contribute both to economy as well as to increased efficiency."

The same Honourable Finance Minister now says as follows :

".... The House will realise that there are no great possibilities of any substantial relief to our revenues in the near future by reduction of the scales of salaries..... The large contingency expenditure, it was at one time thought, could be cut to a certain extent, but the percentage cut in this case has not been successfully enforced in some cases, and we are now appointing an officer from the Audit Department to examine this expenditure and suggest retrenchments. This officer is expected to begin his work from the first of the next month. The recommendations made by the Thomas Committee, hitherto not accepted by Government, have now been re-examined and Government expect that this will lead to some more savings. But here too difficulties arise on account of our inability to retrench any of the posts sanctioned by the Secretary of State."

Now, let us note the tone of the speech of the Honourable the Finance Minister delivered six months ago and of that delivered today. How high and lofty his tone was on that occasion and how subdued and sublime his tone has been today! Then he tried to criticise the previous Government in the matter of retrenchment, but now he has realised the difficulties and he expects that there will not be much saving in this matter.

Now, the next item that he had suggested on the last occasion was the nationalisation of the industries, and I will just read to the House what

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he had proposed in the matter of the nationalisation of the industries. This was what he stated on page 59, paragraph 13 :—

“There is one other direction in which Government's activities must be extended for the purpose of augmenting its resources. There are many public utility services which are at present being utilised for the benefit of a few at the cost of the community as a whole. There is no reason why the State should not nationalise these activities and appropriate the profits for the good of the community as a whole. The supply of electricity, for instance, to the public is carried on at present by private agencies under the protection which Government alone can give on behalf of the public. There is no valid reason why the profits of this public utility activity should not return to the pockets of the public as a whole through its accredited agency, the Government. Nothing has been hitherto done in this direction. Many other potential sources of income which could fairly be taken up by Government remain unutilised or are allowed to be exploited for the benefit of a few. There is a large field which we must explore, to which State activities could be extended, and Government will look forward with confidence to activities of this nature as possible sources of public benefit.”

May I ask the Finance Minister with all humility to say whether anything has happened to this scheme? Whether the appointment of auditors to audit the accounts of these electricity companies was the only thing that he was contemplating, or whether it was that the profits of these companies must come to the pockets of the Government? What was his intention? What has transpired since then that he should not make any mention of this scheme in this year's budget speech? He has scrupulously avoided the whole question. Has any pressure been brought to bear on him, or is he afraid of the big magnates who would perhaps come upon him or refuse to co-operate with him in other matters in which he wants their co-operation? We would like to know what happened to all these schemes, which were proclaimed from housetops to the world. I do hope that the Finance Minister will reiterate the policy of Government in this matter and will say that Government have found funds for this scheme, or for implementing the other assurances given by them for various reforms.

About new taxation mention has been made in the last budget of the necessity of introducing a graded tax on large agricultural incomes. It seems that the inquiries have resulted in creating difficulties and perhaps the Honourable the Finance Minister feels, from the way in which he has spoken on this question, that it is not possible to do so, at least early or to the extent to which he wanted on the last occasion.

Then he mentioned on the last occasion that incomes from alienated lands are putting this Province to a loss of Rs. 70 lakhs. There was no reference to his speech in the Legislative Assembly, but he referred to this matter here when he introduced the budget on Saturday last. He merely said that this was what he proposed to do and that inquiries were started. I do hope that these inquiries when complete will be such that they will be enforced without any fears from any of the landed or the proprietary classes.

Then, Sir, in the last budget speech he had said that Government were ready to have funds for financing schemes of social service. Where is the readiness of Government? I myself do not find this readiness of Government, except in the tobacco tax or the increase in the electricity

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tax. Both these taxes are taxes which will fall on the poor. If I have heard the Honourable the Finance Minister rightly, I think in the Legislative Assembly he said the other day that the tobacco tax is a tax on the poor, and he admits that. If it is a tax on the poor and he and his colleagues of the Congress Cabinet are so emphatic and think that the taxes hitherto imposed are the taxes on the poor, and that the burden on the poor should be reduced and that the taxes should be hereafter imposed on those who are best able to bear them, why then start a scheme of new taxation which will throw a burden on the poor only? It is difficult for me to understand this. In the matter of electricity also, the tax will come from the consumer. I know the Honourable the Finance Minister has said that he will see that it does not fall on the consumer. It only means that Government will force the companies that they should reduce the charges but pay the same to Government instead of to the consumer. In any case, it is the legitimate due of the poor people to get a reduction of their electricity charges. Whether you take directly from the consumer, or whether you ask the electric company to reduce the charges and pay to Government, it means the same thing. Both these taxes that are intended, that are proposed to be levied now, are against the declared policy, the declared intention of the Government. Now, Sir, the memory of the Honourable the Finance Minister as the memory of all politicians, is short, and therefore I do want to remind him of what he said on the last occasion. After admitting that most of the taxation was borne by the poor he went on to say, on page 61, as follows :

"The wealthier classes whose contribution to Provincial Revenues is inadequate must also come forward to take their share in them."

What does he mean by saying 'they must come forward'? Does he expect them to come forward voluntarily? He further says :

"I must state that we are exploring the possibilities of many proposals with a view to submit to this House proposals which may provide the necessary funds for not only recouping ourselves from the loss which a policy of prohibition may involve but will also enable us to undertake some expansion, though not all the expansion, that we desire in the many fields of social service, social service in the widest sense of the term."

May I ask what has happened to this exploration? Is this the exploring of the Himalayas? When are we to expect the conclusion of the Honourable the Finance Minister, and when should we expect the new schemes of taxation which will enable the Congress Government to improve the lot of the poor masses about whom ample words have been said in his speech? We want no more words. We want this Government of the people, which has been claiming to be the Government of the people, to come forward with ready schemes which will actually benefit the people, and not merely say 'we propose to do this thing and that, and we wish to undertake this scheme and that'. They should now desist from merely indulging in such tall talks; that would be much better on the part of the Congress Government.

There is one more matter to which I would like to refer, and that is about the method in which the Government have started making new

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demands on the items for new expenditure. We know that in the past on no occasion, or perhaps on very rare occasions, demands were made for a lump sum for new items. What do we find now? Not only the most important items of the new expenditure are made in lump sums because the schemes are not ready, but we do find further that the new schemes, which have not been included in the Blue Book, have been for the first time incorporated in the budget statement itself and sprung upon the legislature; I mean the sheet that is included in the speech of the Finance Minister which he delivered in the Legislative Assembly while introducing the budget. That sheet gives a list of important new schemes, and A of it states: Provision already included in the budget. Then in B it is stated 'Provision proposed to be made and to be financed from additional taxation,' and this is to the extent of 12,50 thousand rupees. On the last occasion it was natural as that Government could not be ready with schemes, but now at least Government ought to be ready with the schemes before the sanction of the legislature is asked for. It may be that with the majority which the Government have, they may be able to carry everything. But if they are anxious to build up good conventions, they have got this opportunity of laying the foundations of these good conventions. They must not be responsible for creating bad conventions. They have created by now many bad conventions. This is one of the worst conventions that has been founded by the present Ministry and I do hope that they will not continue this system and will come forward before the Legislature with ready schemes. The explanation given by the Finance Minister on this question was a lame and most unsatisfactory explanation. What he said was that every proposal was usually examined critically both by the Finance Department and the Department concerned. We are not concerned so much with the examination of these proposals by the Finance Department. The Finance Department is not concerned with whether the particular expenditure is required or not, whether the scheme is proper or not. That is not the function of the Finance Department. The Department is concerned with the question how far that has been properly and legally done. If it is properly and legally done, no objection will be raised. It is the privilege of the legislature to see whether a particular proposal should be accepted and should or should not be introduced by the Government. Therefore, all such schemes must be placed before the legislature in the proper form. What would have happened if these schemes had not been included in the budget just now? Government is coming with supplementary demands for grants on various occasions. The new items do not relate to schemes for which new taxation was to be imposed. There was a surplus of 50 lakhs of rupees, which has been augmented by the 48 lakhs of rupees from income-tax and excise revenue. That could have been set apart and you could have come forward with your scheme when ready. That would be the right way to do it, but the Government have not done it. I do hope that this aspect of the case will receive the careful consideration of the present Government.

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I have taken a long time of this honourable House. I would now conclude and in conclusion I desire to say only this. There is nothing to distinguish this budget from the budget of any other bureaucratic Government of the past, to whose credit it may be said that they were free at least from the hollow pretensions and the pompous policy of this Government. The people who have pinned their hope to the first popular Government for at least a little more radical thing must wait for the evolution of a party known for its honesty as much for its radicalism. Meanwhile, the fact of the pledges made to them remaining un-redeemed must be severely condemned.

Sir, with these words, I conclude my remarks.

Mr. DADUBHAI P. DESAI *rose*.

The DEPUTY PRESIDENT : As it is now 4-25, I would like to have the sense of the House, whether it would like to rise now and assemble again or meet tomorrow. [*Honourable members* : "Meet tomorrow".] If the House agrees to that, then we might sit from 2 to 7 tomorrow, if it is convenient to the House and now rise for the day, if the House is agreeable. [*Honourable Members* : "Yes".]

The House then adjourned till 2 p.m., on Tuesday, the 8th March 1938.

Tuesday, the 8th March 1938.

The Council re-assembled at the Council Hall, Bombay, at 2 p.m., on Tuesday, the 8th March 1938, the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HALDIPUR, Mr. S. R.
 HAMIED, Dr. K. A.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MEHTA, Mrs. HANSA JIVRAJ
 PATANKAR, Major Sardar BHIMRAO NAGOJIRAO
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
 VIRKAR, Mr. M. B.

The following Honourable Minister was also present :

The Honourable Mr. A. B. Latthe.

GENERAL DISCUSSION OF THE BUDGET—(resumed.)

The Honourable the PRESIDENT: I think it will be better if we continue today to half past four and have tea recess for half an hour. Then we shall resume from 5 p.m. and continue till 7 p.m. unless the discussion ends earlier. If the discussion ends earlier, we shall rise; otherwise we will continue till 7 p.m.

Mr. B. N. KARANJIA (Bombay City cum Bombay Suburban District): Sir, I have gone through each and every item of the budget presented

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by the Honourable the Finance Minister, and after scrutinising it, I do not think I can congratulate him; nor am I in a position to blame him. I can very well realise his difficulties and I say that he has tried to steer clear through Scylla and Charybdis. There are certain items in the budget, and I cannot help feeling that I shall be failing in my duty if I did not make certain suggestions or offer my criticisms with regard to them. As regards retrenchment, I could see that there is nothing left for him to retrench. Even the small items such as the salaries of non-gazetted officers, which he was trying his best to reduce, could not be retrenched and I understand that this proposal of his has been turned down by the higher authorities. As regards the retrenchment which is embodied in the budget, I submit that it does not come to even half a per cent. of the expenditure on salaries, though the Ministry have accepted, by an act of self-denial, very low, say $\frac{1}{4}$ th or $\frac{1}{5}$ th of the former salaries. Therefore, under those circumstances, I think there is now nothing left for the Finance Minister to retrench and I hope he will not use his efforts for further retrenchment, but will try his level best to increase the revenue. The expenditure that the Province has to make on services is now more or less standardised from which nothing more could be reduced. This, in my opinion, was almost a foregone conclusion.

Coming to the interest burden that our Province has to bear, I say that unproductive debts have been heaped up owing to ill-conceived ideas of the former Government, and it has now become a very heavy burden for the Presidency. Sir, we have got a debt of about 22 crores of rupees. Today the interest charges of the banks as well as of Government Papers are very low. They range from 1 per cent. to 3 per cent. Therefore, I may suggest to the Finance Minister to approach the Government of India, with the consent of the holders as well as the other parties concerned, and frame a scheme by which the present rate of interest which is on an average $4\frac{1}{2}$ per cent. can be very well reduced to about $3\frac{1}{2}$ per cent. That would result in a saving of one per cent. and the total saving would be about Rs. 22 lakhs. Supposing a Government Paper matures in 1945 and at that time we find that the rate of interest is equally high, then with the consent of the holders and of the Government of India we can spread it over to a certain length of time by making the loan repayable in 1965 instead of in 1945. I feel sure that the Government of India as well as the holders would come to terms. So, in this way we can save about 22 lakhs. Sir, I made this suggestion because I know that our Municipality was benefited to an amount of 7 lakhs in this way. I hope therefore the Finance Minister will approach the Government of India and would do all that is possible in this respect. I submit that it is one way of getting certain revenue.

Now, coming to the relief and construction works, I may say that certain relief has been given to the peasants and farmers, but I think Government must reduce the unemployment of the educated classes, and they must also try to increase the purchasing power of the masses.

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Sir, I know that this is all very well to say, and I confess it is a very difficult task. However, I find from the budget speech of the Honourable the Finance Minister that nothing has been done to achieve that particular object. To achieve that particular object, my honourable friends Mr. Dadubhai Desai and Professor Davar have suggested that irrigation works must be taken in hand first. I visited certain parts in Sind some years back which were only producing cotton, wheat and so on. They were only useful for agricultural purposes then, but now when I went to the same spots recently, I found that fruits and vegetables were grown due to the irrigation works. Our agriculturists are in the habit of growing the same thing over and over again, and if we stick to our old custom I do not think that our agriculturist class will be benefited to any extent. Because of this tendency of our agriculturist class our lands become unremunerative, and it is now high time that Government found out certain schemes by which their lot could be improved and gave them certain facilities of irrigation or otherwise. For these small-holders Government should frame a scheme by which, just as in America, these small-holders may form themselves into a big syndicate. Only in this way you can induce those small-holders to combine and work for their benefit. Certain machines cannot be worked here e.g. ploughing, on small scale. If only the lands are sufficiently vast, then those machines can work here, and I think by a pooling system the small-holders who are losing now may get something by irrigating on a vast scale. Sir, I have read a book called "Planned Economy" which has been published by Sir M. Visvesvaraya. In that book it has been stated that to promote the interests of the masses and the agriculturists we must have industrialisation in the country. Without industrialisation the lot of our peasants and farmers will never be improved.

Coming to water supply, I am constrained to say that though it was admitted that 10 lakhs of rupees that were provided were not sufficient, this year also only Rs. 10 lakhs are provided for. I however suggest to the Honourable the Finance Minister that if a larger sum is given for village water supply, he will be doing a good service to the poor people.

I now come to artificial silk industry for which our Ministry had allocated Rs. 71 thousand. I find that even that sum has been withdrawn on the ground that the Central Government are going to have this industry developed from their own finances, and therefore this sum of Rs. 71,000 has been appropriated by our Government and they are not going to allow that sum for this industry, which industry will, I think, improve to a certain extent the prosperity of whole of our country. Sir, this industry was not discovered in the world before the year 1906. From 1906, first England manufactured this artificial silk yarn. Then all the other countries followed suit and today India is importing to the tune of say about 5 crores of rupees worth artificial silk yarn as well as artificial silk cloth. Here, just before our nose, there is a vast lake, called Pawai Lake. In that lake there are certain fibres which can be easily utilised for making pulp and to manufacture artificial silk yarn from that. One of my friends,

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who is a solicitor, tried his level best, but no one came forward to encourage him in the matter of this artificial silk yarn. He succeeded in doing it at about two rupees a lb. and he could not do it cheaper. He went from door to door and no one came forward to support him and the scheme was dropped. The Indian Central Cotton Committee is trying to do it with its meagre resources. A small sum of Rs. 30,000 has been allocated to help those who come forward. Why not our Government go forward and say that we will give you some amount if you show certain results out of it? This is an industry which ought to be developed in India. The Central Government will not do anything. We are to do it for our own province. Supposing a factory starts here, I think it will be a boon to many in our Presidency.

The only industry we have got is the Cotton Textile Industry. Even from external and internal competition and after the War is over between China and Japan, I think that the interim report of the Cotton Textile Enquiry Committee would be a disastrous one to our industry. This is the only industry by which we can employ so many people and to give them straightway $12\frac{1}{2}$ per cent. increases is to my mind highly detrimental to the industry as well as to the people. I should say that instead of giving them straight off $12\frac{1}{2}$ per cent. there were other methods of doing it. In Japan, instead of increasing the wages they give them better housing accommodation, give them clothes, education, medical relief and other things. By giving this $12\frac{1}{2}$ per cent. straight off they will squander away their money in drinking, remaining idle for two or three days in a month, they will go to their native country and it will be of no use; supposing afterwards you reduce the $12\frac{1}{2}$ per cent. to 10 or 8 per cent., they will go on strike and again there will be chaos in the Presidency. Therefore, I think, before the final report is out, it is the bounden duty of Government to consider the suggestions which I am putting forward, not to give them direct increase in wages, but to accommodate them in such a way that they can live as lower middle-class men and not in starvation and drudgery. I think that perhaps after looking into the present profits of these mills, the committee have come to the conclusion that $12\frac{1}{2}$ per cent. increases may be given. But no sooner Japan begins dumping in this country, the Ministry will be at a loss to understand what to do to meet the altered situation.

Coming to the economic development, I can congratulate the Finance Member on the appointment of a committee and if the personnel is selected according to the wishes of the people, a tangible result will come forward and we should advise the Committee to first take in hand the industrial development of our Presidency.

Coming to prohibition, I can say that the Ministry are trying to hood-wink us. They first came forward and said that they will put a stop to drinking within three years. When they found that impossible, they have come to six years. To my mind, it will not be fructified even in 10 years and according to my honourable friend, Mr. Jamnadas Mehta, even in 365 years, provided the Ministry remain in charge. I hope the Ministry may remain in charge and achieve their object of prohibition.

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even in 10 years. In the last budget they told us that there will be a loss of 2 lakhs of rupees. Instead of that there is a profit, there is an excess revenue of 12½ lakhs. How is that? Because the trade of the whole world depends on supply and demand. Supposing there are 20 shops in Bombay and they get 20 lakhs of rupees. Suppose they are reduced to 10 shops, they will get the same amount, because the people would go to the remaining shops to take their drinks. In the same manner, I will show you that in the last auctions in the Kolaba and Ratnagiri districts they got more revenues. Even it has been reported in some papers about our Bombay auctions that they have realised something more. I say that whatever loss they show to us, will never accrue during the four or five coming years. They say that from excise revenue they will collect 3,24,00,000. Supposing it is prohibited during six years, even then, the loss would be 54 lakhs. Instead of that, the Ministry have allocated 27 lakhs. But I tell the Ministry that even that loss of 27 lakhs will not accrue because of this piecemeal work of prohibition. If there is a total extinction, then alone there will be loss. But by reducing shops, instead of loss there will be a profit.

Till 1909 opium was to be exported to China and it went on gradually the same as this prohibition policy. One chest of opium was sold in Bombay for Rs. 1,200. Gradually the export was less and less. The price went to Rs. 20,000 a chest and in China the price went to Rs. 30,000, just from Rs. 1,500 a chest. In the same manner, by this prohibition coming in six years there will not be one pie lost and I think the Ministry can be well advised to utilise that amount, without any fear, for nation-building activities.

About education, Sir, I am glad to find that they are trying their level best to educate the masses. But that is not enough. We must have vocational, technical and commercial education. In Bengal a scheme has been framed by which all industrialists as well as the businessmen have combined and they have framed a scheme to give technical education to boys according to their calibre. If the tendency of the boy or the man is to learn a certain thing, this scheme will benefit them. In the same manner, here our Department of Industries has started on a small scale. Unless you give them technical and commercial education I do not think this primary education or secondary education will do them any good. I have seen that to give education to women in Dharwar, they have allocated a certain amount. Why have they neglected Gujarat? I find that in Gujarat there were people and in some parts of Gujarat and Surat there are some semi-barbarous castes staying. You are aware, Sir, Mr. President, and I congratulate you for the work you are doing for a district where we find some semi-barbarous people staying who do not know how to clothe themselves; do not know how to eat; those people are educated and trained by meagre funds that you collect from the people. Why not our Government, after having spent so much money on other things, improve those semi-barbarous people and give even a grant of Rs. 25,000? That they can easily afford to give and then people will not have to go from door to

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door begging. That Parsee lady, Mithuben Petit, is doing her level best to promote the welfare of these classes and I should say that Government should come forward to do something for these people.

About the taxation proposals, the taxes if once levied for emergent purposes remain for ever. Even in the Central Government they said super-tax will be wiped out in three years. It has not gone even after 20 years. In the same manner, here in Bombay Presidency, if once the taxes are levied, like the stamp fees, Court fees, etc., they will remain for ever. But, under the present circumstances, I have nothing to criticise. They have done it.

About the tobacco tax, I am very strong on this point. Our Government have deprived our municipality to the tune of five lakhs of rupees which is very unfair. This proposal of our Ministry has gone to them after their budget was passed and they are very much handicapped.

2-30 p.m. This amount of 5 lakhs has been spent on the fire brigade. A fire brigade is a most essential thing for the municipality to maintain.

An Honourable MEMBER : Government took away your fire brigade ?

Mr. B. N. KARANJIA : The municipality maintains it. If Government wanted these 5 lakhs, they could have raised the amount by some other method, even from this tobacco tax. There is no difference to my mind between tobacco smoking and wine drinking. I had an opportunity to talk with an eminent excise officer. He told me that cocaine and opium are the worst drugs for a man to become addicted to. In the case of a cocaine smoker, after a post-mortem examination they find a layer of black soot in the stomach. Therefore, it is highly poisonous to take cocaine. Similar is the case with opium. Then comes tobacco. He told me that by tobacco smoking also there is some sort of harm in the stomach and in the human body. But if you drink moderately, there is no harm. It is not that I am against prohibition. I am only pleading this that while the Congress Ministry has come forward to prohibit liquor drinking, why can it not levy a higher duty on tobacco thereby lessening the consumption of tobacco ? I think there is scope for increasing the revenue from tobacco. In order to let the Bombay Municipal Corporation have this amount of Rs. 5 lakhs, my suggestion to the Finance Minister would be to levy a duty of an extra amount of 5 lakhs on foreign tobacco. Foreign tobacco is sold in this country to a great extent. I think they import more foreign tobacco than the quantity grown here. Supposing a licence fee or any other kind of duty is levied on foreign tobacco, I think you can easily get Rs. 5 lakhs to be given to the municipality without detriment to the revenues of the Government. That is my suggestion, and I think it ought to be followed. You will thereby kill two birds with one stone. Sir, in Japan the soil was not fertile enough for tobacco growing many years ago. For years they tried their level best, but they could not do it. Then one man began growing tobacco. He went to the Government and said

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"I have grown this tobacco of a very inferior kind; you levy a certain duty on foreign tobacco." They levied 50 per cent. duty. Even then the competition was there. The duty was raised to 100 per cent.; the competition was there even then. Then they raised the duty to 200 per cent., 300 per cent., 400 per cent., and 500 per cent., and ultimately it went up to 600 per cent., and now there are good many portions of land in Japan which grow tobacco and they use their own tobacco. My point is that if you want to get more money, there is great scope for increasing the tax on foreign tobacco. If my suggestion is followed I think Government will be able to give relief to the municipality to the extent of these 5 lakhs; they will get more money and thereby improve the financial position of the Province.

I think that trade is improving and whatever expectations the Ministry has will be realised. Therefore, they must provide larger amounts for nation-building departments, and not fritter away their resources by giving doles to institutions like panchayats and things of that sort, in order to have the objects which they have in view achieved. The Ministry should come forward and take up large schemes. I have for instance suggested the artificial silk industry. If they do so, the scope for revenue will be much more. As my friend Professor Davar said, we must increase our revenue from 12 to 24 crores. If they do not reach the figure of 24 crores, they can at least go up to the figure of 18 to 20 crores, if certain suggestions are carried out.

About public utility companies, last year the Finance Minister scared the whole share bazaar and there was chaos in the share market. This time also, as you know, people are very shy to invest their money. It has been said that about 4 per cent. interest will be allowed to these public utility companies. To my mind, it is inadvisable to scare the public and thereby prevent them from investing their monies in industrial concerns.

Then, Sir, coming to the final stage, I had a talk with one of the Ministers when the Finance Minister went to Delhi. After his return from Delhi I went to see the Minister. I asked him about the amount of subvention, and he said that they did not expect to get even 5 to 10 lakhs. I said "No; according to my calculation you should get at least 25 to 30 lakhs" and I am glad to find that they have got 27 lakhs as subvention.

Last year they said that they would lose 2 lakhs from excise. Instead of that, there has been an increase of 12½ lakhs, 9 lakhs increase in Stamps and Court-fees revenue, 51 lakhs the balance of the last two years, Rs. 71,000 from artificial silk, which after allocating they have taken back, 5 lakhs from tobacco, and they have allocated 34 lakhs as the loss from excise revenue. I say that there will not be a loss of 34 lakhs, not even of 10 lakhs, not even of a pie. The policy pursued hitherto has convinced, and as a businessman I can assure the Finance Minister, that there will not be the loss of one pie from the excise revenue, if you prosecute the policy, which you have been doing now, of reducing

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certain shops from the villages. On the contrary, your revenues will be increased till you get total prohibition. If the Honourable the Finance Minister will approach Government and take measures for a scheme to reduce the interest on their debt from $4\frac{1}{2}$ per cent. to $3\frac{1}{2}$ per cent., on a modest estimate the saving would amount to Rs. 1,40,00,000. I can assure the Finance Minister that he can do a lot of things from this Rs. 1,40,00,000, and I am sure that this will be the surplus next year, and there will be no loss. Certain things which have been provided for in this budget are absolutely futile. They can utilise these amounts for nation-building activities.

Lastly, I may say that in spite of various difficulties they have learnt now about their own responsibilities and how to steer the ship as a statesman. After all, if I were in their place, I could not have done better than they have done. Still, I say that there is certain scope for increasing the revenue, and I am sure if certain suggestions which I have thrown out are accepted there will be an increase of revenue to a certain extent. With these words I resume my seat.

Dr. G. S. MAHAJANI (Poona *cum* Satara): Sir, as the Finance Minister is here at the moment, I propose to dispose of a matter which, though not strictly relevant to the budget, he brought in the other day when introducing the budget—I mean the warning or the admonition that he gave to the inamdars and the holders of alienated lands in this Province. I shall just quote one or two sentences from the report of his speech in the press. He is reported to have said :

“Those who belong to this privileged class have got to give a better justification for the advantages which they are enjoying and which others do not enjoy. They will have to show what purpose they are serving in the present structure of.....the society and what part they propose to play in the future.....If that return is not forthcoming, some taxation or burden on them would become quite necessary.”

We have been used to Sardars' Durbars, in which His Excellency the Governor used to address the order of the holders of alienated lands, but when an admonition or warning comes from a responsible Minister, I think some notice has got to be taken. Now, what exactly is the return which is expected from these inamdars or holders of alienated lands? Take a hypothetical case. Supposing an inamdar proposes to open a school in his village and maintain it, would that be considered as adequate return for the special privileges that he is allowed to enjoy? The Finance Minister was careful enough the other day to add that he was not proposing any kind of expropriation at all. Whatever the grounds on which the sanads or the inams were granted, there must be some other return for the continuance of those privileges—that was, in substance, the argument advanced. Therefore, I give this instance. If the starting or maintaining of a school or some such thing is to be considered as adequate return, then I would add that, legally speaking, the only thing that you can impose on the inamdars or holders of alienated lands is the negative duty of doing nothing which is anti-social, anti-national or anti-Government. If they do that, then the sanads

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which are granted to them in perpetuity have got to be changed. If you expect, however, any return from them in any shape which involves a recurring levy on their income, then it does amount, to that extent, to expropriation. There is no gainsaying the fact. Non-recurring levies there have been many. There were contributions to the War Fund, contributions to the Jubilee Fund, contributions to the Red Cross Society: these things, as a rule, the inamdars and all rich people have got to pay. But a recurring levy must amount to expropriation in the strict sense. One is apt to confuse the privileges enjoyed by the inamdars here with those enjoyed by zamindars in Bengal for instance. But in this Province, we all know that an inamdar cannot even collect his own land revenue. That has got to be done by the village officers; all that he is entitled to receive from these village officers is the balance sheet, or the *vasul baki patrak*. The stories of the harassment to which the tenants are put by the holders of alienated lands are not at all true so far as this Province is concerned. Therefore, whatever admonition you want to give to the inamdars, you must give a clear indication of the sort of return you expect from them. Otherwise, it is little short of a threat of expropriation. I mention this now because tenancy legislation and other legislations are in the air. I suggested to Government last time when I made the budget speech that in all their inquiries regarding a tax on agricultural lands etc. they should associate representatives of the Inamdars' Association with the inquiries. That has not been done. We are told that when these inquiries are complete the Inamdars will be asked to state their views. But that is hardly enough. I therefore request Government a second time that before these inquiries are complete, during the stage of these inquiries, it is much better that they take them into their confidence, and invite representatives of the Inamdars' Association and I feel confident they will certainly come forward to make what sacrifice you want them to make for the betterment of the masses in this Presidency. This is the second time that I make this suggestion.

Now coming to the budget, I must congratulate the Honourable the Finance Minister on what I consider a very good budget. I am not taking the line which my honourable friend Mr. Joshi took yesterday. He was quite correct in saying that the budget is disappointing *in relation to* the promises of the Congress party. But I do not take those promises into consideration. I weigh the budget as it is, and, considering the limits within which the Honourable the Finance Minister is free to move, I must confess that it is a very satisfactory and lucid expression of the finances of this Province. Speaking as a professor, I think on every page of this financial statement the hand of the professor and the administrator is written in bold letters. I would recommend this statement to all the students who want to take up the subject of administration. They will get indeed a very lucid and a very clear picture of the provincial finances. There is not the least doubt about it. I congratulate the Honourable Finance Minister on the welcome improvement and next on the very judicious distribution of the funds that he has at his disposal. My honourable friend Mr. Pradhan last time found fault with me for

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suspending my judgment and not coming forward to offer my congratulations. I tell him that, on this occasion, I am giving my congratulations unreservedly and quite heartily.

Mr. R. G. PRADHAN : Hear, hear.

Dr. G. S. MAHAJANI : Sir, there are two points on which I further welcome the financial statement of the Honourable Minister. He says that the aim of every proposal in this statement is the aim of the Congress Party, as also of all true nationalists. I am glad that this note was sounded by the Finance Minister as this is the first time that Congress is not claiming the monopoly for the betterment of the masses. Another thing is this : that the Honourable Member is prepared to welcome all criticism from those who see the difficulties in his way. So far as this House is concerned, there is not a carping critic on this side. We all see the difficulties in his way. We, members of the liberal party, are accused that we see everywhere difficulties and therefore whatever suggestions I may be making in this regard will be, I hope, in the light of his own statement, quite welcome to him. No two watches will always exactly agree, and all our business is to see whether we cannot synchronize our watches—synchronise our views—on this occasion of the budget discussion, so that during the next year our views will continue so far as the administration in nation-building departments at least is concerned, to move together and the party leaders, at any rate, so far as those departments are concerned, will continue to have much common ground. From that point of view again I am hopeful the suggestions that I am going to make will be accepted.

First of all, every honourable member will agree with me that above education, above medical help, above all, we place the programme for providing drinking water to villagers. Last year we were told that about 30 lakhs of rupees would be required for settling this whole question and Rs. 10 lakhs were provided. In this budget also Rs. 10 lakhs are provided for. I want to know whether Government have really gone into the question, whether they have made a plan and have settled within what time this all important problem is to be got over. I notice that so far as the roads programme is concerned, they have got a seven years' plan. It is not necessary to take instances of other Governments like the Punjab and to state that you must have some definite programme of the whole problem. Our own Government is doing it, but with regard to this problem of meeting this prime necessity of drinking water in villages, I do not find any mention of a plan. I am told that the estimate of Rs. 30 lakhs was not based on facts, but the House is entitled to know what the facts are.

The Honourable Mr. A. B. LATTHE : Who made that statement ?

Dr. G. S. MAHAJANI : It was made by the Finance Minister himself in his last financial statement.

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My definite suggestion is that Government should go into this problem and just as they have made a seven years' programme for the roads, they should prepare the estimate, and I am sure the lower House, as also this Chamber, will be prepared to sanction all the necessary funds.

Next, I wish to say a word about industries. Last year the Honourable the Finance Minister mentioned some help to the handloom-weaving industry, and it was said that that was the industry next in importance to agriculture. I quite agree. Now, there is no reference to it in this budget except in two places. There is a grant of Rs. 32 thousand to the All-India Spinners' Association, and then I find in the Blue Book a subsidy of Rs. 10 thousand to hand-spinners in the Bijapur district. I wish to bring to the notice of the Finance Minister that if some of the handloom weavers use hand-spun yarn, quite a great majority of them use mill yarn—and if you look to the census report you will find that their number is vast—and they are in utter desolate state of unemployment. So, some help is absolutely needed to them. It would not be right on the part of the Government to concentrate all their help on those who use only hand-spun yarn and neglect the just claims of those who use mill yarn. That is my second suggestion.

Coming now to education, the whole problem of education at present appears to be in a nebulous state, and it is very difficult to offer criticisms on the floor of the House at this stage because there are so many committees sitting and these committees are still drafting their recommendations which would be incorporated in the legislation that will come before the House. And yet, there are certain remarks made in this statement which have got to be taken into account by the public. So far as primary education is concerned, we have no word in the statement about whether compulsion is going to be introduced, or whether the Wardha scheme is going to be adopted or whether the curriculum is going to be based upon the many astonishing ideas that are afloat. All that we are told is that "voluntary organisations will be invited to take up a large share in this work of spreading mass education." Now, before voluntary organisations can accept the invitation of Government, two things will have to be settled. Government complain about the disparity of the spread of education in several districts. They say that some districts are well advanced, others are backward and to remove this disparity new schools should be opened. It is first the duty of Government to announce the exact disparity and in which districts schools are needed. They have first to give out to the public which districts, which places, which talukas require more schools and to what extent Government will offer financial aid. These things must be first made clear. Secondly, we must know, on what lines these schools, if taken over or newly started by voluntary organisations, are to be run. I have no desire to anticipate the conclusions to which the committees that are now sitting will come, but before we pass on to the next item, I shall just state, in general, the main propositions on which voluntary organisations, or the existing societies, or educational institutions could come forward to take up this work of

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spreading mass education. First of all, it must be clear that so far as primary education is concerned, literary and cultural education must play a dominant role. Vocational education should be introduced only by way of hobby. Vocational education to be made productive in the primary education is an impossible proposition. These three principles must be borne in mind. In rural schools you may give preference to agriculture or plant life; in urban schools you may give preference to weaving, spinning and Sloyd system. But, after all, that is a subordinate branch and the dominant role must be played by the cultural side and the literary side so far as primary stage goes.

Next, coming to secondary education, there should be two distinct sorts of schools, namely, the vocational schools and secondary schools, i.e., those giving mainly cultural and literary education. Even in vocational schools you will have 2 hours' literary education compulsory every day and 4 hours will be devoted to vocational instruction. On the other hand, in secondary or literary schools, there will be 2 hours' work on some vocational subjects. And so far as productive work is concerned, you can only expect even at the secondary stage that this work that will be turned out by the boys may bring in a return, just sufficient to cover the cost of the materials used. Nothing can make education self-supporting. I do not know whether these principles will be agreed to by the committees that are sitting, but if these fundamental principles are agreed to, I see no difficulty in inviting private institutions to open schools, or in any private institutions accepting the invitation of the Government to open private schools,—the two preceding conditions being met, namely, Government themselves coming forward to disclose the disparity that is already observed, because they have got the statistics in their hands; and, secondly, Government themselves first disclosing their own quota of the financial burden. These are the remarks that I have to offer on the question of primary and secondary education.

Again, Sir, last year I made a suggestion with regard to doing away with the seepage and the wastage. That suggestion
 3 p.m. was based on the practice prevalent in Madras, namely, this. Do not impose compulsion on all, but impose compulsion in the case of such boys as have already received education for one year. That is to say, if the State has spent money for the education of a boy for one year, see that it is put to the fullest use, that is, see that the boy continues for four years. That is the practice at Madras. I suggested that this should be adopted here so that there will be no wastage and every penny that the State spends brings its full return. Now, I have got a quotation here to support the very suggestion which I made last year and of which I have not heard anything at all, whether the Ministry had accepted it, whether at any rate they considered it. Here is the latest quinquennial review that I got from the University and they observe with regard to this compulsion and like matters :

"It is far more important to exact penalties from parents of children who are irregular in attendance and who leave school before completing the course, than in respect to boys who have no desire to attend schools."

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If a parent does not wish to put his boy to school, do not worry him, because we have not the money to cater for all the needs of the country; but as soon as a parent has put the boy in the school, then you must get hold of him. He cannot leave the school because it has spent money for one year and lest he should lapse into illiteracy, this recommendation is given in this report also. I wish the Education Department and the Minister-in-charge to carefully consider this matter.

With regard to secondary education, I must congratulate Government on three welcome features, the institution of the provident fund, the restoration of the cuts and their decision to convert some of the High Schools into junior vocational schools. That was the suggestion which I made last year in this House. Now there are three suggestions which I want to make. Some of the Government high schools which you are not going to convert into junior vocational schools, instead of being transferred to private agencies as was announced last year, might be, with better advantage and with better result to the Presidency, converted into girls' high schools. Secondary education of the girls in this Presidency requires much encouragement. I find that Government have taken a right step in this direction this year and yet it is not sufficient. To prove that point I shall just read one quotation from the same report. This summarises the position :

"In Bombay, facilities for the secondary education of girls are provided mostly by private agencies with the assistance of grant-in-aid, as the Department only maintains a full high school at Ahmedabad, and anglo-vernacular girls' schools at Thana, Nasik, Ahmednagar, Dharwar and Bijapur."

Out of these 5 middle schools Government propose to convert 2 into high schools. That, as I said, is a step in the right direction. There is a table here which gives the number and percentage of trained women teachers in secondary schools in Bombay and you will find that among all the provinces, excepting that of Assam, Bombay occupies the lowest position. In Madras, the percentage of trained teachers is 85, Bombay 44. Now you will see other figures. Bengal 52, United Provinces 48, Punjab 68, Burma 86, Bihar and Orissa 71, Central Provinces 68, Assam, I mentioned, is 43 and the North-West Frontier Province 50. Excepting, therefore, Assam you will find Bombay occupying the last place. That at any rate will convince Government that as soon as possible these middle schools should be converted into high schools. Strictly speaking, one could urge that per district there should be one high school for girls, but we know the state of our finances. We know the difficulties which are in the way of the Finance Minister and therefore we do not press them. That is a positive policy.

There is a negative policy also which I want to urge upon the attention of Government. There are certain things, which I am going to ask Government not to do. There are for instance departmental circulars. I am not in the habit of referring to matters of which I have not exact evidence. Therefore, I say that even if there is no circular (I know there was a circular), the department will admit at any rate its having forbidden headmasters of high schools from admitting girl students in their

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schools with the object that other local schools in that area should benefit. If the other schools happen to be of a recent origin or not well-staffed, ill-equipped or not giving that sort of education which the University approves of, then the guardians do not send their girls to those schools. The girls' education therefore suffers. I have brought with me here a representation to give evidence of departmental interference. This is a representation which was addressed to a big educational society—I do not mind disclosing the name—the Deccan Education Society. We have at Satara an Advisory Committee and its members who have signed it are officers, one a retired District and Sessions Judge, the other a Congress member of the Legislative Assembly, Mr. S. H. Sathe, a colleague of my friend the Deputy President. I shall read out one or two sentences from this representation :

“The stopping of admission according to the suggestion of the Educational Inspector would be viewed with displeasure by the public of this place and this institution cannot afford to incur such displeasure, just as it cannot afford to ignore the advice of the Educational Inspector.....”

Therefore, I want the honourable the lady member of this House to take note of this state of things and see that such circulars—

Mrs. HANSA J. MEHTA : What is the date of the circular ?

Dr. G. S. MAHAJANI : The circular I have not got with me. I shall tell you the date of the representation, it is June 1937, but the date of the circular I have not got with me. I do not assert that there was a circular, but even if there is an indirect pressure, still the honourable lady member knows that the suggestion of an educational inspector means much in the case of secondary schools. I learn that certain members in the department were against co-education. My only submission to this House is that policies are to be determined by our responsible Ministers or educational institutions of long standing, and not by men in the department. The departmental men are to carry out policies. Therefore, if there is anything against co-education, that is to be settled from above and not by anybody else, and therefore, I would say that this sort of departmental interference must not continue.

Another suggestion, Sir; if it is thought by the department that some local schools of recent origin, girls' schools let us say, should be encouraged, to flower and blossom, then there is only one way to do it. In any case you are going to close down certain boys' high schools. If you are not going to convert them, you will close them. Lend that staff to these girls' schools. Instead of giving a grant in money, you can lend your staff. This was the very policy which was pursued with reference to the girls' high school in Poona. Government lent the staff and then they progressively withdrew it. When there is the Government staff, then there is the prestige. The guardians send the girls to that school. That is the only way in which you can encourage other schools, but not in this artificial way of stopping admission in the existing old schools and compelling guardians to send the girls to what they consider inefficient high schools.

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One more suggestion with regard to secondary schools and I shall pass on. There is the Grant-in-Aid Code. It has not the sanctity of law or an Act passed by the legislature, but it is neither on the same footing as mere rules. Therefore, any change in the Grant-in-Aid Code must be done with due deliberation and with due warning to all concerned. I find—and I think I have already spoken to responsible members in the Cabinet—that certain changes in the Grant-in-Aid Code are introduced without due notice. One such change is that whatever the standing of the school, whatever its previous record, whatever the numbers in that school previously, no new division can be added without the permission of the Department. How has this worked? I might just take an instance. Say, there is a school which had 1,200 boys in 1915 on its roll. It happens today when the circular is issued, when this policy is adopted, to have 1,000 or 800 boys. Then you are told that you must stabilise at this level. That is manifestly unfair. The school has ample facilities, it has got staff and if at one time it could accommodate 1,200 boys, it is unfair to that school to say that it cannot add to its present numbers, and therefore I wish the Educational Department and the honourable the lady member to take all these private agencies who are helping Government in this work of education into confidence and not place such difficulties in their way. It is not a question of giving more grant. It is a question of giving them more freedom.

Now, Sir, I shall turn to the question of higher education. I congratulate heartily; in fact on every item I find there is good ground for offering hearty congratulations to the Finance Minister. So with regard to the higher education I offer him congratulations on the sort of higher facilities that he is going to provide in the shape of the research work at the Deccan College and the research in Gujarati and Kannada at Ahmedabad and Dharwar. There is another thing which though not mentioned in his speech one finds in the Blue Book, viz., the restoration of the number and value of the Dakshina Fellowships. It is a very good step indeed. I wish to suggest at this stage—I know the state of the finances, everyone will clamour for more money on the things on which he has set his heart,—but I do wish to suggest that when time permits and when finances permit, Government should increase the number of these Dakshina Fellowships or Government fellowships. I shall give you my arguments and just see if they do appeal to you. One thousand rupees per year means three Dakshina fellowships. There are at present a number of colleges in this Presidency. Only a few of them enjoy this advantage of Dakshina fellowships. If Government decide to institute in every college three such fellowships, it will not come to much. Even a provision of Rs. 10,000 per year more would mean that the State has instituted three Dakshina fellowships in every college in this Presidency. It is a very small amount that you have to allot, and this is the only way in which merit as such is recognised. There is no

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question of any class or community, there is no question of the backwardness of any community or anything of that kind involved. A scholar works for 4 years in the college, he does his utmost and gets a first class, and for one year he enjoys this fellowship. I could suggest methods as to how the energy and intellect of these scholars could be harnessed in the cause of national service. But first make this provision; not necessarily today, but in time to come. You should be able to do it. I do not want to dilate on this point. The attitude of defeatism that is growing in the younger generation is mainly due to this fact, that whatever they do in their examinations, whatever they accomplish in the work set out for them, whatever their success, they do not get any adequate recognition from the State. He may be a first class first, he may be a prizeman; but when he sends an application for a post, unless it is backed up by influence, he has little hope; the State does not give any guarantee that it will give adequate means for his livelihood. For a few students in the Engineering College there were guaranteed posts; they too have now been abolished. So, I feel, Sir, that the State ought to show that in some ways merit is being recognised. You have already made provision for the depressed classes and others who are backward. If you can show that there is also some provision for the recognition of sheer merit, then you inspire the younger generation with respect for the administration, respect for the State, and respect for the polity. That is the main ground on which I say this should be done. I think that the lady member of this House, the Parliamentary Secretary, will be able to appreciate my views in this regard. A number of colleges have sprung into existence during the last 10 years, started and conducted by private efforts. Government is asked to grant affiliation to them and Government grants the affiliation. But does it give any grant to these new colleges? No. The old colleges get grants. My college for instance (the Fergusson College) gets a grant, but the new colleges do not.

Mr. R. G. PRADHAN: The Karnatak College gets a grant.

Dr. G. S. MAHAJANI: The old colleges get it. We who have been already in the field get it. But every new college that comes into existence does not get a grant automatically. The honourable member knows it. My point is this. When the University recommends affiliation to a new college and Government grants that affiliation, Government must recognise that some obligation rests upon it as well. The education budget in that respect must be increased. Otherwise, is it like simply granting a licence to open a new shop? It would be just like that. When more colleges are allowed to start, they must get a grant. But do not do that at the expense of the older colleges. When I make this suggestion, I know that I might be inviting trouble in our case. But I am putting the whole case before the Parliamentary Secretary. Government allows a college to come into existence, because the local people have pooled their resources, they have gone about, collected funds, and put forth their efforts. Is it not the duty of the

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Government to come forward a bit ? Therefore, as soon as there is an increase in the number of colleges, there must be a corresponding increase in the budget. The amount of Rs. 1,39,000 in the Blue Book should be increased. It will be a question of a few thousands, not of a crore or anything like that. I have carefully gone into the figures. If you increase the provision to say Rs. 2 lakhs, then all colleges will be satisfactorily functioning and Government will be doing a lot of good in the cause of higher education. I am putting the whole matter on a plane of bare justice, and I hope that the cause of justice will not be allowed to suffer.

I am glad, Sir, that the cause of modern Indian languages is being taken up by Government in the sense that a class II post has been created at the Elphinstone College in Marathi. There are already posts of a similar character for Gujarati and Kannada, but there was none for Marathi, and one is being created this year. I congratulate Government on that step. It is stated that it is a temporary post. I hope that in due course it will be a permanent one. If it is intended that it is to lapse if in the first year only a few students come up this year, that would not be good policy, because even in the University these modern Indian languages are now being encouraged. Their study is being introduced even for Intermediate Arts class from the next year, and therefore it would be worth while making this post at the Elphinstone College permanent and not keep it temporary as I see mentioned in the Blue Book.

By the way, I am not very particular about words, and yet may I suggest that in future in the Blue Book and White Book the word "vernacular" be replaced by the words "modern Indian language" ? I say that because even in the University in 1930 the suggestion was adopted and the Syndicate ruled that in all statutes, ordinances and rules, everywhere wherever the word "vernacular" occurs the words "modern Indian language" should be introduced. I was able to look up the minutes, and the reason for the change is this.

The Honourable the PRESIDENT: I think there is a Government circular issued only a few days ago to that effect.

Dr. G. S. MAHAJANI: Yes, but the Blue Book still uses the word. Now that I have mentioned it, I might take the Council into confidence. Originally the word "vernacular" meant the language of the slave. Even now the Oxford Dictionary gives its meaning as a language not of learned formation. No one will say that Marathi, Gujarati and Kannada are not languages of learned formation.

Mr. R. G. PRADHAN: I agree with you.

Dr. G. S. MAHAJANI: There is one more thing about which I wish to speak—the status of Sanskrit in this University. Members of the Council know that the Bombay Presidency is well known for the high standard of Sanskrit it has maintained; in fact, the Prime Minister is

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himself a Sanskrit scholar, as I mentioned once in this House. Formerly there were two members in the I. E. S. who held the posts of Sanskrit Professorships—Mr. Dhruva and Mr. Belvalkar. After the retirement of these two gentlemen, no class I post has been created. Well, Sir, I do not attach any importance to the salary or to the fact that it is class I or class II. But, after all, we have got to look to the public, and my suggestion is that it is necessary, in the interests of the status of this subject, to convert two of the class II posts into class I posts. The Finance Minister need not get alarmed, because I may tell him that this does not involve any financial loss to the Treasury. At the most it means Rs. 100 per year. If the maximum in the case of class II posts is Rs. 800, in the case of class I posts it is Rs. 900. That is all. Therefore, the maximum extra expenditure to the Government will be Rs. 100 per year in the case of one post. I am not standing up here for any locality or for any person, but I am standing up for the subject. Therefore, the status of this subject should be restored to its former level. I have got figures in my mind, but as that is not official information, I shall not make use of it, but would merely ask the Parliamentary Secretary to go into this question of the number of posts in class I for different subjects, and then the Ministry will be convinced that Sanskrit requires this bare justice to be done to it.

As I am on this subject of higher education, I would refer to yet another matter. I am sorry that the Ministers for Health and Education are not here. There is a growing need of starting one more medical college in this Presidency. It is a very costly affair; it will involve big expenditure which no private agency can come forward to shoulder, and I know that within a year or two it is not possible for Government. And yet I want Government to place this fact before their mind, because as the principal of a college and as one who comes into daily contact with other brother-principals, I know that every year more than two-thirds of the people that apply for admission to the medical colleges are refused admission. The college that is conducted by the Bombay Municipal Corporation has to confine its admissions first to the people from Bombay and its suburbs. Then there remains only one other medical college. The question of accommodation comes in and one finds it very difficult to get admission to it. Even girl students are not getting admission, and they have to thank their stars if they get admission in the medical college at Delhi. Therefore, the stage is already reached—it is high time that another medical college is started in this Presidency. Whether you start it in Poona, or Ahmedabad or Dharwar, it does not concern me. I am not standing up for any locality as I said. I invite Government to go into the question and see whether a serious situation has not arisen.

Another point to which I would like to invite the attention of this House is this. In these professional colleges—the college of engineering, the agricultural college and the medical colleges—the students that come from the States and from other Provinces are very few indeed,

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but they are charged, I understand, double the fees charged to a student from this Province. I have to suggest that this is a rotten principle. Please do away with it. I know the argument in favour of that principle, that if the tax-payer of this Province is to bear the burden of these colleges, why should we allow students from other Provinces or from States like Bhor or Kolhapur or Sangli to get the benefit? But, as Burke said, great empires and small minds go ill together. You do not, after all, increase your revenue by even a few thousands. I have noticed that there are only five such students in one college. The difference in fee would come to about Rs. 150 per student. How much are you adding to your revenues? Practically nothing. The best way is for the Provincial Government to enter into correspondence with the other Provincial Governments and tell them "You give us some contribution, and we shall admit 5 students from your Province". The same may be done with the States. But not to enter into any such agreement and penalise the parents of such students is, I think, wrong in principle. It is much better to close admissions to outside students. But when you admit students from outside, you do so because they are the best students from the intellectual point of view. If you are not really improving your finances, I see no point in this discrimination.

3-30 p.m. Therefore, my suggestion is either you stop admission or enter into an agreement with the Provincial Governments and States, but treat the students on equal level. So, that is my final suggestion to the Government, in respect of this question of higher education.

Now with regard to the taxation proposals, my colleagues have dealt with it. Only one or two remarks, and I have done. I am glad that we read in the Finance Minister's statement the following observation:—

"The need for applying the Court Fees Act to litigation in the High Court was very strongly urged some years ago in the Legislature when this Act was discussed. I may in this connection assure the House that Government have got the subject under investigation and it will be carefully considered in due course."

I hope this will come up before the next year. With regard to the tax on tobacco, the whole statement is very cleverly written no doubt, but I feel the Honourable the Finance Minister has avoided just the question which ought to be gone into. This is what he says:—

"I do not wish to enter into the controversy as to whether tobacco is a luxury or a necessity....."

Now my submission is, before you consider any taxation proposal, this is the first consideration which must engage your attention, and how can you put it aside? When you put that consideration aside it means that you have put a difficult question aside.

Mr. R. G. PRADHAN: What is your view? Is it luxury or a necessity?

Dr. G. S. MAHAJANI: In the case of the villager it is not a luxury. I say it is a necessity. I am not a smoker myself.

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My point is when the Finance Minister is considering a taxation proposal, it is a wrong procedure to say "I am not going to consider whether it is a luxury or a necessity". Taxation proposals are not considered in that way.

An Honourable MEMBER : There may be a difference of opinion.

Dr. G. S. MAHAJANI : There is no question of a difference of opinion. Difference of opinion arises only when one has considered the question and has come to the conclusion that he does not agree with a particular view. But here the point has not been considered at all. I submit this question must be first discussed before you come with a proposal to the House.

I much fear I have exceeded my time. The suggestions that I have made mostly concern the honourable lady member of the House and I hope they will be taken into consideration. I hope anyway, to hear some reply at the end of the day.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira): Sir, I reciprocate the sentiments expressed by my honourable friend Dr. Mahajani of the Fergusson College, and congratulate the Honourable the Finance Minister on producing a budget which is unique in more than one respects. During the last 15 years never was a budget produced which contained so many items on the nation-building departments; I mean the items to the tune of one crore and 16 lakhs of rupees devoted for the nation-building departments. I would challenge my honourable friend Mr. Joshi, if he were here, to show me a single budget in which so many new items were introduced. I was rather a little bit surprised when my honourable friend Professor Davar criticised the Finance Minister for dropping irrigation, but I just recall to his mind the Minister's speech in which he says that there are some schemes which are being investigated and I may add that in the matter of irrigation unless you have got the survey estimates etc. of the schemes and financial aspects ascertained, you cannot include such items in the budget. So I think the three or four schemes that the Minister mentions in his budget have been yet incomplete and perhaps investigation is being done. I just request him in this behalf that, so far as possible, the staff may be increased in the irrigation department and the schemes which he is contemplating should be started as early as possible. In North Gujerat frost has become a hardy annual. It destroys crops and I think loss of crores of rupees is annually suffered by the cultivators. So the sooner these schemes are set on foot the better will it be for the North Gujerat people. For the last 7 years that country is suffering from frost and in many areas standing winter crops are destroyed. Under these circumstances, I simply request the Honourable the Finance Minister to hasten the investigations regarding the schemes mentioned in his speech.

Another thing that I request him in this connection is to move the Government of India to put a screw on all the Indian States that are comprised within our Presidency not to create difficulties in the way of this

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Government in carrying out the irrigation schemes in which their territories are concerned, I mean the catchment areas and canals of the projects that lie in the Indian States. While we in British India give every possible facility for the development of territories of Indian States and take irrigation even at our cost into their States, I cannot understand why the Government of India or the Government of Bombay should not put a screw on Indian States and prevent them from creating difficulties in the way of irrigation department in carrying out the irrigation schemes in which their territories intervene. The new Government of India Act makes it quite clear that in all such matters the decision of the Viceroy should be sought, and I request the Finance Minister just to write to the Government of India and get the Viceroy's decision so that such projects should not be delayed on account of the difficulties created by those Indian States. I say this at length because I know of two or three schemes for which the Indian States through whose territories the canals passed and through whose territories the catchment areas lay objected and would not have anything to do with them. They would not allow any of the schemes within their areas which would benefit British territories. I say if that were the attitude adopted by the States, we can retaliate by withholding Railway and irrigation facilities that are enjoyed by some States.

The other matter that I bring to his notice is regarding taxation to meet excise deficit. I had suggested to the Minister of Excise a point and I think this House will also agree when I say that the area that is actually benefited by prohibition should be taxed to that extent and I say it with reason that the area benefited should be called upon to meet the deficit. For instance, if the excise revenue from Bombay is 50 lakhs of rupees, Bombay should make it up because that would lead to the saving of one crore of rupees to Bombay City and that one crore of rupees would be spent in the Bombay City and for the benefit of Bombay. But those districts which are moderate, that is, those where the drink evil is not to such an extent as it is in the industrial areas; why should they be made to pay for prohibition in those industrial areas? That is my contention. I do not mean to say that labour should be taxed, but I mean to say that the customers of this labour should be taxed. That is a sound and moral principle. I suggested that course to the Minister for Excise and personally he rather appreciated the point, but I do not know what the attitude of the Government is in this regard.

My honourable friend Professor Davar suggested some other matters about or rather criticised the attitude of this Government regarding advanced banking, advances to the cultivators and the mortgage banks and so forth and referred to the Reserve Bank of India. In this connection I might say that the Reserve Bank of India was created for the benefit of the masses, that is, for the agriculturists also. Regarding the Reserve Bank of India,—so far as I remember the discussion that took place in the Imperial Legislature—the Government of India distinctly stated that it will help in the advancement of Banking facilities in the rural

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areas also and thus help rural industries. Now, what has it been doing ? When the Government of India called upon the Reserve Bank to submit, in their statutory report, proposals for legislation regarding Rural Banking, etc., they rather discouraged such a step on the ground that the co-operative movement has got still much to learn. The societies have to put their House in order, and so forth, which, after all, means that they are shirking that responsibility. I, as a Director of the Provincial Land Mortgage Bank, can very well say that all Central Provincial Banks are run on sound principles and they can stand the tests of any Reserve Bank or any Bank expert even if he is a Scotchman. The Reserve Bank must know that they have been started to serve, not to teach the country. They have been giving lessons and writing bulletins. But we know how to run co-operative institutions. Our Government does know how to start co-operative institutions, how to start land mortgage banks, but without finances how are these banks to function ? And for that I had suggested to former Governments and I suggested to this Government also that before the grant of new charter either to the Reserve Bank or to the Imperial Bank, they should be obliged to devote a percentage of their reserves or a percentage of their profits for financing agricultural industry, and I say this not as a new thing, but in all countries excepting that conservative country, England, in all countries, for instance in France, the Imperial Bank is compelled to devote a fair percentage of the reserves and profits, without any interest, for the development of agricultural industry. Not only in France, but in the United States, Federal Governments finance rural banking. In that country the insurance companies advance to the rural industries and agriculture at the rate of 5 per cent. for the development of those areas. Now here what do we find ? We find here the practice of England. In England they are very conservative, they live in fifties, I should say, so far as banking is concerned, knowing little of modern Agricultural Banking and not following continental and other countries—

An Honourable MEMBER : They give without interest ?

Mr. DADUBHAI P. DESAI : Yes, in France. A particular share is given without interest.

Another Honourable MEMBER : By state banks.

Mr. DADUBHAI P. DESAI : That is what I mean. And here the deposits in the Postal saving banks and reserves in the Imperial Bank should, at least a part of them, be used for the development of the agricultural industries and redemption of debts, and if it is not done, then I do not think redemption of agricultural debts is ever possible. I will give one instance. Say an agriculturist has a debt of 500 or 1,000 rupees at 12 per cent. Now under present conditions, with the paucity of capital in the rural areas and with the credit of co-operative institutions at the lowest ebb, they cannot afford to advance at less than 9 per cent. or 8 per cent. at most and that too not in sufficient amount. Then it would take very long to redeem that debt, but if you ask these big banks to

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lend to the co-operative institutions at 1 or 2 per cent. or if the Government compel these big banks to devote a part of their reserve capital or rather part of their profits for the redemption of the agricultural debt, then the Societies would be in a position to advance at 3 per cent., which would be made available to the agriculturist at about 4 per cent. You reduce the whole debt by more than 50 per cent. by that means. Some such drastic action will have to be taken,—which is not drastic at all, but quite a natural action if you follow other countries but drastic if you follow England. So in this matter of banking and handling of monies, I think, the better course for this Government would be rather to follow the methods obtaining in United States and the continent than obtaining in England and that is why I say that though we have lot of cheap money in the banks, that is, money at 2 per cent. lying in the banks, at 3 per cent. lying in the Postal Savings Banks, yet our agriculturist, that is, the man who is responsible for basic industry, is starving. So, I request the Honourable the Finance Minister to make a note of it. Of course these institutions are under the control of the Government of India. I know that. But while the Reserve Bank Bill was being discussed, the Government of India themselves stated that the Reserve Bank funds will be employed in the interest of the agricultural industry also. With that view the proposals were called for, and two matters were mentioned by the Government of India, viz. to advance funds for the improvement of agricultural finance in this country and for the improvement of indigenous banking, or something like that. These two proposals were invited, but the Reserve Bank has shirked both of them. That is, the Reserve Bank has come forward with a piece of advice and some criticism regarding co-operative and indigenous institutions. I say, whether we are backward or forward, we know best. A bank that was recently started cannot know our position.

One more suggestion, and that is about forests. I think we have got about 84,00,000 acres of forest areas. By the way I say I was glad to read in the Finance Minister's statement that in Kanara they have just passed orders that within half a mile or so of a village there should be no forest. I think that is a very good order in the interests of the agriculturists in Kanara. I know that it is one of the dirty spots of our Province. Kanara, which was very prosperous years ago, is now turned into a jungle practically and jungle is still encroaching upon civilisation. So this Government has done one of the greatest services to that part of the Southern Division. There are three areas of decay in our Province, Kanara in the Southern Division, Ahmednagar and other districts in the Central Division, and North Gujarat in the Northern Division. These areas are slowly and gradually decaying. But now Government have set an example in Kanara by which the people there will now encroach upon the forests practically, cultivation will improve and it may after some years become as prosperous as it was before.

Sir, there are 84 lakhs of acres under forest in this Province, and what do we realise? After paying for the staff, we realise out of these 84 lakhs

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of acres only about Rs. 13,00,000. That is the net profit. To the Government, I think, these areas are a source of much worry and trouble and to the agriculturists living in these forest areas a loss and annoyance and nuisance. So, some plan must be devised by which the population living in the forest areas is made more prosperous. If there are unproductive forests, they may be handed over for cultivation. So far as I can see, there may be many forests in Gujarat, in Khandesh and even in the Southern Division which are unproductive and a loss to the Government and the forest value of which is practically nil. As we want to increase our production, Government might very well consider this proposal of reducing the forest areas of our Presidency. But it will entail a long enquiry, perhaps extending over months. In deforesting an area, Government might find a lot of departmental difficulties too. In any case, this anomaly must go,—that 84 lakhs of acres should give only an amount of Rs. 13,00,000 after we have paid the officers and staff.

Another thing which I had suggested before and which I again suggest is that an economic survey should be made of the forest produce, and industries should be started in the forest areas. I know that much wood and material is wasted in these areas. You can create very cheap electrical energy out of it. You can create in Thana electrical energy cheaper than what is given by Tata's. Again, I say that in all rice growing tracts electrical energy can be produced cheaper than what is given by any hydro-electric scheme. There is so much heat generated in burning rice husks that it can be used for the production of very cheap electrical energy. It is done by other countries, while we are throwing it away. All these points require to be investigated, and I would point out to Government that if all these things are properly attended to, the excise deficit could be very well met by our Province. With these remarks I resume my seat.

Mr. F. STONES (Presidency) : Sir, I think it is, first of all, my duty to thank the Honourable the Finance Minister for implementing the promise that he made to us at the last Poona session, whereby he undertook to allow us the facility of having the budget presented to us in plenty of time for discussion by this Council before the Assembly proceeded to the final stage of voting the demands. I also wish to congratulate the Finance Minister on the excellent speech that he made when he presented the budget to the Assembly downstairs. I am not, however, too happy in connection with two items which he brought forward on Saturday last in presenting the budget to this Council. The first item was ably dealt with by my honourable friend Mr. Joshi, in whose company I am glad to find myself, who in this case brought to the notice of this House and of Government very important points. I do not like to see the allocation of large sums of money for expenditure without the details of such expenditure, that is to say the programme, being presented before this Council. The plea put forward by the Government that such items would be subject to scrutiny by the Finance Department reminded me of the good old days of the bureaucratic Government which our Congress ranks hold in such contempt. I would ask the Government and the Finance Minister

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in particular, except under extraordinary circumstances, to give this House full details of the programme, or to fall back upon the means suggested by the honourable member Mr. Joshi, namely, supplementary grants.

The second item has been ably dealt with by my honourable friend
 4-00 p.m. Dr. Mahajani. I heard with astonishment the term "expropriation" from the lips of the Honourable the Finance Minister. It was a threat to the inamdars. Much emphasis was laid by the Finance Minister on the fact that his proposal did not mean expropriation and that the inamdars were instructed to put their house in order, but I must frankly say that I heard this term with astonishment and horror. This phrase has been bandied about in this country in connection with industrial and commercial organisations until it has come to have neither meaning nor value, and I counsel my landlord friends affected, to be very chary of being the flies to enter the Government spider's web in the guise of coming to some agreement. Their fate may be worse than that of some industrialists of this Presidency who have recently endeavoured to co-operate with Government. I certainly counsel them to be very careful of offers of affection and goodwill from the present Government, and I trust that they will look with caution at any advances that may be made by the Government for the destruction of their rights in properties granted to them in old days.

I do not propose to deal with the major items of the budget. They have been very ably dealt with by my honourable friends on this side and I rather prefer to dwell on the minor items on the theory that many little leaks build up the biggest adverse balances. Dealing with the industries first, I do wish to offer my congratulations to the Finance Minister on his decision to appoint a committee to investigate the industrial and economic position of this Presidency. I only hope that he will be able to secure a splendid personnel, a personnel equal to the advanced position that this Presidency holds, and I equally hope that in a short time he will be able to take us into his confidence as to the nature of that committee. Of the other points that I hope the committee will bring forward, one would be to stress the fact that we must create some system of liaison between the industries department of this Province and the industries departments of the other Provinces. I am quite aware that there is a meeting held annually somewhere in Simla or Delhi where representatives of industries from the various Provinces meet together, but I want a little more co-operation since I notice in the budget a grant of Rs. 10 thousand or so for the development of sericulture and ericulture. Now, I frankly want a lot of money spent on industries as I do on the development of rural economy. Instead of spending a little too much money on sericulture and ericulture I would prefer Government to devote that money to other purposes for the present. My reason for saying this is that I feel that, although Japan and China have doubled their importations into this country during the year 1937 of an inferior type of pure silk, development in this direction should be left to Mysore and

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Bengal who have done an enormous amount of research work on the subject. In Mysore I have had the privilege on several occasions of investigating the tremendous amount of work of the Mysore Government on sericulture, and I feel that the Mysore Government have not received anything like an amount of remuneration they could expect from their efforts either in so far as the State or the cultivator is concerned. I therefore suggest that, before the Bombay Presidency embarks on any programme for the development of sericulture or ericulture, it should take counsel of our friends from Mysore and Bengal. Let these two Governments at least realise some profit from the enormous sums that were spent in developing these industries, before they have to meet uneconomic competition from this Province.

I was rather upset to find that the grant of Rs. 71,000 for the development of the manufacture of art silk in this Presidency is being withdrawn. As I am also a member of the Indian Central Cotton Committee, I realise that it is a wise decision in some ways to utilise the funds made available by the Central Government for this purpose, but I would point out that the world is starving for cellulose and the enormous developments that applied science has made have resulted in a definite shortage, almost to starvation point, of industrial cellulose. I have travelled all over the country by road, rail and air and my trips convince me that India is in as good a position as any country to supply this incessant demand for cellulose material. I would like that at least some portion of the sum allocated be used for a study of the possibilities and the development of cellulose in India for domestic and export markets.

I notice that the Director of Industries is going on leave. I shall be pleased to place all the information I have at my disposal before him if he requires the same. Equally, during the period of leave, I would ask him to study the system of selection used by the Birmingham City Council for the selection of his apprentices under the Government Apprentices Scheme. This scheme has been worked out by the Institute of Psychology in London in conjunction with the officials of the Birmingham City Council, and I believe that if a study is made of this system and it is adapted to the requirements of the apprenticeship scheme in Bombay, there would be a big saving in the wastage of human material. Any system which will make provision that we get a square peg in a square hole will prevent wastage.

I am pleased at the amount that has been allocated for home industries. I have little criticism to make, but I want Government to see that there will not be wastage in this connection. I raise this point because it was recently brought to my notice that handloom products from the Punjab were being offered for sale in Bombay cloth market at prices at which neither the Japanese nor any mill large or small can compete, or even sell those goods at a fair loss. From the terms of sale that were communicated to me it was obvious that the cloths being offered were incorrectly costed, and I can only assume that funds allocated for such

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items as the development of markets had been used to offer goods for sale in competition at well below economic levels.

I am also pleased to notice the increased sum allocated for the development of fisheries. With the large coast line this Province possesses, and the incessant demand for cheap and wholesome food, I think that Government can push on even further with this development.

I have only a few points to note on education as Prof. Davar and Dr. Mahajani have already very ably spoken on this subject. All I can plead, as I did in the Poona session, is for the allocation of more funds for the proper training and proper payment to teachers. It is an investment that must come back to you many times over. One item which pleases Professor Joshi and myself is the allocation of one lakh of rupees for social and medical amenities to labour. Prohibition, reduction of hours, increase in pay and the poor condition under which most of these people live mean that anything that we can spend and devote to enable them to better utilise their leisure is all for the good of both the City and the Presidency and I commend this scheme. In this connection, may I draw your attention to a well-known Italian scheme under which such sums provided for social amenities are spent? I am unable to give to this Council at present the details, but I would like to commend it to the notice of the Government and the Presidency.

I have just one final word. It was my intention to avoid any reference to the interim report of the Cotton Textile Enquiry Committee and the Government resolution thereon, but from comments of approval made yesterday by my honourable friend Mr. Joshi, I am compelled to say something on this subject in view of his remarks. There are two things that I would like to point out. The Bombay Millowners' Association, a few days ago, by resolution instructed their members to carry out and pay the scale of wages recommended by the interim report. The Ahmedabad millowners have done the same thing and I have little doubt that the millowners in other centres in this Presidency will fall into line. In agreeing to this, however, I do want to point out that it must not be taken for granted that they agree with the dubious speculative economics and the specious arguments on which the recommendations are based. They wished to prevent an embarrassment to the Government and also the damage and waste which are bound to occur by rejection of the findings. I welcomed the appointment of this committee. I would personally have preferred a committee of the type of the Fawcett Committee, but in saying this I do wish to pay tribute to the ability and integrity of this committee and I wish to acknowledge the hard work they have put in already and the difficulties of the task ahead of them. I do not wish to labour the question now. It would do very little good and possibly a great deal of harm if I went into detail, but I hope at a later date to be given an opportunity to do this. I must, however, enunciate on broad lines the objection of the local associations of employers in this Presidency on the findings. Firstly, the interim report

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to give fair treatment to all concerned, could not be made in the time available. The increases given are, therefore, ill-considered in their effect, inadequate in some cases and more than enough in others. They perpetuate the wide disparity that exists between certain occupations. What is equally important is they increase the amount of wages to be paid by mills already paying more than adequate wages and do not bring up the level of wages in the poorer paid establishments nearly enough. More time taken on standardising wages on the basis of occupation and the amount of work done, would have produced a better report, would have increased the wage of the poor man near the starvation line and removed some of the disparities which now exist between occupation and occupation, and mill and mill. The committee have still ample time to realise the ill-effects of their hasty decision and I hope that I shall have an opportunity of congratulating the Government and the committee at a later stage on a better and more solid contribution to the stability and well-being of all concerned in the cotton textile industry of this province, an industry second only to agriculture. Mr. Joshi may be on a different side in his representation of labour, but I can assure him and all concerned that the millowners in this Presidency are prepared to give a square deal to labour provided they get a square deal from labour and Government.

With these few comments, I commend this budget to the House with my qualified remarks.

Mr. M. G. BHOSLE (East Khandesh cum West Khandesh) (*Addressed the House in Marathi*): Mr. President, I support the budget put forward by the Finance Minister. I congratulate him on it as there are no taxation proposals in this budget. -The Government have not taxed the agriculturists like the previous ones. On the contrary, they have undertaken the prohibition programme and have spent 30 lakhs of rupees and have imposed the Tobacco Tax, which I would however say is not proper. The cost of tobacco is very little and it is not costly like liquor, but it has to be done as Government requires money.

Honourable members have made criticisms about education. It is not possible to please all. If the same members had been on Government side they would have praised the Government. (*An Honourable Member*: What is your experience?) I have got experience of 1927 and if you see the record you will find it. Whatever Congress ministers do, they will find fault with.

Regarding prohibition, 5 annas per bottle is objectionable. The Bhils in my district drink because it is very cheap. You will find it on comparison of the sales of the previous and the current years in my district and the people are put to a loss. My appeal to the Government is that they should modify those orders.

Regarding education, I am glad that the Congress Ministry has not provided more money for college education. According to their plan,

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Rs. 24 lakhs more are to be spent on education. If the amount is spent on the education of the children of the agriculturists, it will be satisfactory. I hope the money will not be utilised in restoring the cut in the salaries of teachers. If the money is spent in that way, it will be of no use. As far as possible, it should be spent in opening new schools. In the case of the advanced classes, we see that although their young men are educated, they cannot find employment. Even graduates are unemployed. If they want education for the sake of education, they may go in for it. I think that instead of spending more money on higher education, as much money as possible should be spent in giving primary education to the children of the educationally backward classes. In a village with a population of 500, there should be at least one school.

Regarding water supply, the new Ministry is collecting information through the Collector and other officials in the district about water supply in villages. Efforts are being made to meet that want. A sum of Rs. 10,00,000 has been provided for the purpose, for which the present Ministry deserve our thanks. In carrying out their programme, Government should see that preference is given to those villages where there is urgent and real need for a water supply, and not to villages which may have an existing source of water supply in the shape of a river, etc.

I am glad that there is a provision of Rs. 2,00,000 for the improvement of village health. In this connection, I should like to point out that an occasional visit to a village by the doctor is no good. What happens is that the doctor visits the village and takes the signature of the patel in token, without caring to enquire as to who is ill and whether there is any epidemic disease. I appeal to the Ministry to pay attention to this matter.

Coming to the question of *pat bandharas*, Government have appointed a committee to go into the question. But the committee is to go into the question of the large *pat bandharas*. I want to say that the small *pat bandharas* were put up by the agriculturists at their own expense, but Government are reaping the benefit, and even then these small *pat bandharas* are neglected. I request that more attention should be paid to them.

On the whole, I am glad to find that there is provision for meeting the needs of the agriculturists. There is some provision made for village panchayats. At present there is no propaganda regarding the benefits of village panchayats. That should be made good. Also the panchayats should be invested with more powers. At present even the powers exercised by the police patel are not exercised by the village panchayat, and therefore the people do not take any interest in them. I would suggest that at least the powers possessed by a police patel should be given to the chairman of the panchayat. He is an elected member of the panchayat, and as such he has always to look to the interests of the people. The police patel does not care for the people. As the chairman of the panchayat has to act in accordance with the wishes of the people, there is no harm in investing him with more powers.

[Mr. M. G. Bhosle]

Then, Sir, the provision of Rs. 40,000 for bunding of fields deserves mention. Then for the benefit of labour, the Congress Ministry has provided Rs. 1,00,000. Similarly, in all other matters they have tried to do their best for the good of the people. The provision of Rs. 25,000 for the promotion of *khaddar* is satisfactory. Any other Government would not have made such a provision. The full benefit of this will be reaped by the labourers and agriculturists.

With regard to the high salaries at present being paid to Government servants, as no reduction can be made in those salaries, there is likely to be a deficit. I think it is now up to these Government servants themselves to voluntarily sacrifice a small part of their high salaries.

Sir, in conclusion, I should like to say that to impose more taxation on the poor is not possible. They should be helped as far as possible. Neither does the Congress possess a mint which will turn out any amount of money to supply the various wants fully. They have done the best within the means at their disposal, and for what they are doing for the rural areas and the welfare of the poor they deserve our best thanks.

(The House re-assembled after tea at 5 p.m.)

Khan Sahab M. I. MAKAN (Northern Division) (Addressed the House in Gujarati):

માનવંતા પ્રેસીડેન્ટ સાહેબ,

ઝોનરેબલ શીનાન્સ મેમ્બર તરફથી રજુ કરવામાં આવેલા બજેટ બાબત પ્રથમ ઉપલેક્ષ નજરે લેતાં એટલું તો જરૂર કહી શકાય કે બજેટને સરભર રાખવા બદલ ઝોન. શીનાન્સ મીનીસ્ટર મુબારકબાદીને લાયક છે. ગરીબ પ્રજા ઉપર નવા કરનો બોલો નાખવામાં આવ્યો નથી એ ખરેખર આગળના વખતની સરખામણીમાં તારીફ કરવા લાયક નીતિ છે. જે કે તે સાથે સરકાર માલદાર પક્ષનો બચાવ કરવાને માટે અલબત્ત ટીકાને પાત્ર રહી શકે છે. ખુદલા શબ્દોમાં કહીએ તો સરકારે હજુ એ બાબતમાં વિચાર કર્યો હોય એમ લાગતું નથી. મને આશા છે કે ઝોન. શીનાન્સ મીનીસ્ટર આ બાબતનો સ્વીકાર કરશે.

ખેડુતોને રાહત.

ગયા વર્ષે પણ મેં બજેટ મીટીંગની અંદર ખુદલા શબ્દોમાં બજાવેલું હતું કે સરકારની આનાવારી સીસ્ટમ બીલકુલ પદ્ધતિવગરની છે. સરકારે એ બાબતમાં પાછલી સરકાર કરતાં વધારે કોષપણ જાતનું ધ્યાન આપ્યું હોય એમ લાગતું નથી. ખેડુતો પાસેથી કોષપણ જાતની સીસ્ટમ વગર મહેસુલ ઉત્તરાવતું એ તો હાલુગતો અન્યાય કહેવાય, માટે ફરીથી હું કહું છું કે સરકારે આનાવારી કાઢવાની રીતમાં સુધારો કરવો. તેમજ અમલદારોને સુચના આપવી જોઈએ કે એ બાબત ધારાસભાઓના સભ્યોની સલાહ લઈ કામ કરવામાં આવે. પછી કદાચ કેબ્રિસ પક્ષના સભ્યો સિવાય સરકારને બીજા સભ્યોપર

[Khan Sahab M. I. Makan]

માગે છે. સાથે તેની એ પણ પોલિસી છે કે હાઈકુલો બંધ કરવી. મને સમજ નથી પણની કે સરકાર જ્યારે હાઈકુલો બંધ કરવાનો વિચાર કરે છે ત્યારે નવી કોલેજની પાછળ આવા ખર્ચ કેમ કરતી હશે. આ હાઈકુલો બંધ કરવાનું પગલું પછત વર્ગની કોમોને ખુલ્લો અન્યાય કરવા જેવું છે, કારણ તેમ કરવાથી હાઈકુલોનો કબજો આગળ વધેલી કોમો પાસે રહેશે અને બીજી કોમોને એમના આશરે કેળવણી લેવાની તક મળે તો મળે, નહિ તો તેવી કોમોને કેળવણી માટે તલસતું પડશે.

બંધ બાંધવા તથા પાણીની નહેરો.

બજેટમાં નવી આઇટમ નં. ૭૭-૭૮માં દક્ષિણ વિભાગમાં બંધ બાંધવા બાબત અખતરા કરવાની સ્કીમ હાથ ધરવા સરકાર ધરાવે રાખે છે. એ બાબતમાં હું સરકારને જણાવીશ કે ભરૂચ જિલ્લામાં આંજોદ-મજાસર તથા પખાજી વિગેરે ગામોમાં પહેલાં એવા બંધ બાંધવા બાબતનો વિચાર કરી સરવાલ કરવામાં આવેલી. ત્યારપછી આજદીન સુધી તે સ્કીમ સરકારે હાથમાં લેવાનો વિચાર કર્યો નથી, માટે એ બાબત ઉપર હું સરકારનું ધ્યાન ખેંચું છું કે એ બંધ બાંધવામાં આવે તો હળશ એકર નવી જમીન નીકળે તેમ છે.

ઝોર ગામથી નર્મદા નદીમાંથી એક નહેર ભરૂચ જિલ્લામાં લઈ જવાની યોજના હાથ ધરવામાં આવી હતી તેમ મારી જાણમાં છે. તે સ્કીમપર ફરી વિચાર કરી જે સરકાર અમલમાં મુકશે તો ભરૂચ જિલ્લામાં મોટા ઉપકાર કરેલો ગણાશે અને ખેડુતો જે પાંચમાલ થઈ રહ્યા છે તેમને ઘણાજ મોટા ફાયદો થશે. મારા ધારવા મુજબ આખા ગુજરાતમાં એક પણ નહેર હસ્તી ધરાવતી નથી. એ સાબીત કરે છે કે સરકાર હમેશાં એ ભાગ પ્રત્યે બેદરકારી બતાવે છે. સરકારે આજ સુધી મધ્યવિભાગમાં લાખો રૂપિયા નહેરો તેમજ રસ્તાઓ પાછળ ખર્ચેલા છે જ્યારે ગુજરાતને એ બાબતમાં તદ્દન ભુલી જવામાં આવ્યો છે. મને આશા છે કે આ સરકારમાં જ્યારે ગુજરાતના ત્રણ માનવન્તા મીની-સ્ટરો છે ત્યારે તો જરૂર ગુજરાતને જોઈતા ન્યાય મળવો જોઈએ.

છેવટમાં જણાવું છું કે બજેટ ૪૧ લાખની ખોટ બતાવી સરભર કર્યું છે. મારી આ સરકારને વિનંતી છે કે જે પ્રજાએ આપણને આવી માનવન્તી જાણ્યો મેળવવામાં જે સંગીન મદદ આપી છે અને આપણે જે વચનો તેમને આપેલાં છે તે આપણા ખ્યાલ બહાર જવા જોઈએ નહિ અને ત્યારેજ આ પુરશીઓ આપણે શોભાવેલી ગણાય.

છેવટે મહેરબાન પ્રમુખ સાહેબનો આભાર માની મારું લાપણ પુરું કરું છું.

Mr. M. B. VIRKAR (Kolaba cum Ratnagiri): Sir, I rise to offer my congratulations to the Honourable the Finance Minister on his producing a budget of a very progressive character. I may say that since the reforms of 1920 it is the first budget of that type and in my opinion, Sir, it deserves compliments from this side. I do not mean thereby that nothing is left from the budget to be desired. In the provisions made I see that not less than Rs. 1,16 lakhs have been provided for

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nation-building purposes. This is not less a compliment to the budget. But on the credit side I find to my disappointment a cut of Rs. 10 lakhs in the grants to the Corporation of Bombay and to other local bodies. It is said that there was an agreement between the Corporation and the Government in which it was agreed by Government to pay something as a grant to the Corporation. If it be so, I think that the cut of Rs. 5 lakhs in the grant to the Corporation is quite unjustifiable and I say that it is a breach of trust. Then Rs. 5 lakhs are further cut down from the grants to be given to all the local bodies of the Presidency. It is said by the Honourable the Finance Minister that some of the local bodies are too negligent in the development of their resources and so to put pressure on them this cut has been made. The local bodies generally consist of the municipalities and the district local boards. The municipalities generally depend upon their own finances. At least as regards the town municipalities I may say that practically no grants are given to these small bodies except a grant for medical purposes. I may say that it should not be treated as a grant to the town municipalities. I treat it as a remuneration for the municipality's services rendered to the Government by allowing the medico-legal cases to be treated in their dispensaries and the town municipalities at least would not care if that grant would be cut off. They can retaliate and would cease to serve the Government for their medico-legal cases. As regards the major municipalities, they also mostly depend upon their own resources. There might be some grants here and there of a trivial nature—I myself am not acquainted with the affairs of the major municipalities—but it is beyond doubt that they work in urban areas and many monied persons, merchants and commercial communities live in these urban areas and they can be tapped to contribute to the municipalities fairly enough. As regards the local boards, the case is quite different. From the beginning the local boards' finances consist of the grants from the Government and some contribution from the taxes. Generally speaking, the proportion of grants to the other income of the local boards is 40 to 50 per cent. of the whole income and moreover the Government must take into consideration the fact that the area on which a local board rules is a rural area inhabited by poor persons. That is why the Government is required to provide lakhs of rupees for the reconstruction of these areas and if the Government would expect the local boards to get anything by way of taxation from these poor people, I do not think that the local boards would in these days get anything from the taxes. Under the circumstances, the boards ought not to have been treated like that. You know, Sir, as a result of the recent world-wide depression several grants of these local boards have been already cut off, I think, to the extent of 30 to 40 per cent. The grants are not still restored and the present cut of five lakhs of rupees is a shock to the district local boards. As regards the negligence that has been charged against these bodies, I think the Honourable the Finance Minister ought to have mentioned such bodies. From what I see from the white book, I think the Honourable the Finance Minister does not mean what he says. I take

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for instance page 235, a grant for water supply to the extent of Rs. 75,000 has been altogether cut off for the next year. The reason perhaps must be that the Government has made ample provision in the present budget for the water supply in the rural areas and so the grant seems to have been cut off. So far as I remember, there is a reference to this fact in the speech of the Honourable the Finance Minister. Next see page 341, for the current year there has been a provision of Rs. 75,000 for all the Local bodies in the Presidency for the maintenance of clerical establishments. It has been totally cut off in the budget for the next year. The cut is made in the entire grant for all the local bodies in the Presidency, that is, the three divisions, northern, central and southern. Further on page 70, a grant of Rs. 1,30,000 as a contribution to local boards in view of one anna cess on excise revenue, has been entirely cut off and so not a single body in the Presidency is to get anything in the next year on account of this grant. The Finance Minister says that some of the local bodies are negligent. Then why should all other local bodies be left unprovided for the negligence of some of them only, is a serious question. That is why I say that the Finance Minister does not mean what he says. The reason for the cut in the grants is not exactly negligence on the part of some of the local bodies. The local bodies are serving the people as the Government does and so their grants ought not to have been cut. On the contrary, on account of the depressed condition of the rural areas, Government ought to have extended their hand to them with ample monetary help in their present depressed condition and I submit that the cut of Rs. 5 lakhs in the grants to local bodies is not justifiable on any ground.

As regards the debit side, certainly the Government has done much, for which I have offered my congratulations to the Government. Some of the honourable members of this House have been more or less critical against the provisions on the debit side. Especially the honourable member Mr. Joshi expressed that the budget was disappointing on the ground that the labour class was not liberally treated as promised by the Government last time. Of course there are different angles of vision. Members may look at the budget from different standpoints. As my honourable friend Mr. Joshi is one of the leaders in the labour movement, he thought that his subject should attract much more attention than any others. But I should like to say that agriculture has the first claim on the Government's purse. As my honourable friend Professor Davar said yesterday, agriculture is the basic industry of the country. If that industry be in a thriving condition, then and then only other industries, commerce, professions and everything else will prosper. Besides, 73 per cent. of the population lives on agriculture and the rest on industries and other occupations. Under the circumstances, I submit that agriculture as an industry and the agriculturists have the first claim to share in the public funds.

I see various provisions have been made which go ultimately to the reconstruction of the villages. But I do not think that all of them will

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be of immediate use to the villagers. The central idea in the village reconstruction programme should be the rise in the income of the agriculturist, and every effort must be made towards that point in the initial stages at least. In that connection there are several factors which must attract the notice of Government, before they decide to make provision for several things in reconstruction. What is the condition of an agriculturist today? He is in such a condition that he is half-starved. And what is our ideal? Our ideal is to see the economic condition of the agriculturist improved to such an extent that he should live in comfort. To attain that object we must see that his income from agriculture is increased, and in addition to that he must get some subsidiary occupation to augment his income. Our soil also is getting poorer and poorer every year for want of manuring. In this connection I may refer to an incident that occurred in the month of September or October last. On the occasion of some function in the College of Agriculture, presided over by Honourable the Minister for Revenue, one of the college authorities said in his address that in these days the agricultural industry was not a paying concern. I support his statement. That is our experience. The president then retorted to the effect that, if that was the case, where was the necessity of maintaining the college at such a tremendous cost? The matter should not have been allowed to rest there. It ought to have been taken notice of and investigated, and if in the opinion of the experts it proved to be a fact, then it was the duty of the Government to find out a remedy to remove the evil. So also, if you look at our present day agriculturist, you will find in him several shortcomings. I may refer to some of them which have been noted by me. They are as follows:—His working inefficiency, his apathy, social habits, want of organisation with corporate action, his old methods of work, low prices, want of capital, indebtedness and steady exhaustion of the soil. I have already referred to the steady exhaustion of the soil. All these things will have to be remedied before your efforts towards the reconstruction of villages will bear any fruit. You cannot open any schools to correct the drawbacks of the agriculturists. You must make an organised effort to train the agriculturists for self-help. It can only be done by a comprehensive scheme to be evolved involving corporate action. Such a scheme I should like to recommend to the Government. It is nothing but the scheme outlined by no less a person than Sir M. Visvesvaraya in a brochure published by him in the year 1935. The scheme is based on the Japanese model. The villages in Japan are similarly situated as our own in India. The book in which the Scheme has been outlined is styled as "Rural Reconstruction in India". The scheme has been prepared for the conditions obtaining in our villages. Sir M. Visvesvaraya says :

"Agriculture is conducted in Japan on the principle of family management on a small scale and it plays the same important role as in India. The same handicaps, also, operate in both countries, namely, the small size of the holding, over-population and indebtedness. But in India there is in addition illiteracy, which has deepened the impoverishment of the rural communities."

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As regards the success of the scheme he says :

"The scheme is adopted from a similar organisation found in actual operation in parts of Japan where, under Government encouragement, a large measure of success has been achieved. Records of villages exist in that country which, under the operation of such a scheme, have increased their income five-fold or more in the course of 20 years."

He further says :—

"In what follows a rural improvement scheme suited to local conditions is outlined. The scheme aims at increasing income in villages by increasing production from agriculture, by extending subsidiary occupations and industries, and by increasing the hours and output of work as practised by the village communities. It aims at progress by laying emphasis on production, in other words, by appealing to the self-interest of the villager. It attempts, at the same time, at increasing the working efficiency of the villager, by initiating a system of home discipline, by providing for vocational or occupational training and by extending educational facilities as widely as local resources might permit. While external aid is fully availed of, its primary object is to give full play to the villagers' capacity for self-reliance and self-expression."

I can recommend this scheme to the Government and I hope in consultation with experts, Government will see its way to introduce the scheme for our villages. Closely connected with the topic—

The Honourable the PRESIDENT : I find that there are several other members who are anxious to speak, and I wish the honourable member Mr. Virkar curtails his remarks as far as possible. As there are many members who are desirous of speaking and there is a time limit, I suggest that whatever remarks he has to offer should be very brief.

Mr. M. B. VIRKAR : Closely connected with the topic is the question of prices. Why are our villagers reduced to such a state ? Because of the low prices prevailing at present. It is also the duty of the Government to tackle this problem. One of the factors prevailing in this matter is that of prices having been reduced as an effect of an unnatural and artificial exchange ratio. I admit that the subject is not within the province of the Provincial Governments, but it adversely affects our rural population, and so the Government will please see its way to the solution of this problem also. The natural ratio was 16 pence to a rupee and now 18 pence to a rupee has been the ratio committed to the Statute since 1926. I do not go into the history of this exchange muddle. It has a long history reflecting on the conduct of the Central Government.

The Honourable the PRESIDENT : The honourable member should curtail his remarks and finish in 2 or 3 minutes.

Mr. M. B. VIRKAR : Sir, I wish to finish in two sentences. The question of prices or the question of ratio affects in one more respect and that is in the payment of land revenue. Land revenue was assessed or levied on the lands in revision survey at the time when the prevailing ratio was 16 pence to a rupee and we are paying 18 pence per rupee to the Government, i.e. 12½ per cent. more than what we really ought to. My request therefore is that the Government can give us that much relief. On the basis of the revision-assessment the Government should be pleased to remit 12½ per cent., of the land revenue and remit the whole assessment raised in the re-revision.

I should like to cut short here and I resume my seat.

Mr. R. G. PRADHAN (Thana cum Nasik cum Ahmednagar): Sir, rising as I do at this late hour and particularly as the Parliamentary Secretary and the Honourable the Finance Minister must speak in reply to the criticisms made in the budget, I do not propose to detain the House for a very long time. And I give an undertaking to you, Sir, that I shall not take more than 15 minutes. Yesterday was a very unlucky day for the budget. The budget was subjected to very severe criticism by some of the speakers, but it seems that the stars have changed their course and today they have been very favourable and almost every speaker who spoke today has paid compliments to the Government. My honourable friend Principal Mahajani paid very handsome compliments indeed. We are very grateful to him for his appreciation of the budget, and I want, in return, to reciprocate that compliment and to say—I think I may say so also on behalf of Government—that I heartily appreciate the excellent speech and the valuable and constructive suggestions he made during the course of that speech.

Sir, the speech which the Honourable the Finance Minister made in the Assembly lays down what I may call the policies with regard to the various subjects with which the Government have to deal. If time had permitted, I would have liked very much indeed to expatiate on these policies, but I cannot do so now. However, the problem that is uppermost in my mind at the present moment is this: how are we going to develop the financial resources of our Province, having regard to the limitations imposed upon us by the Government of India Act? There can be absolutely no doubt,—however much some honourable members of this House may indulge in a carping criticism, there is absolutely no doubt—any fair, honest, straightforward man must admit that this Government have been steadily advancing on the path of progress, that this Government are anxious to do the best that they can in order to promote the material, the moral, the educational development of our Province. There can be no two opinions on that subject. The only question is, how are we going to get the funds? The financial adjustment between the Central Government and the Provincial Government is such that there is not much scope for developing the financial resources of our Province, and yet I think that if we pool together our minds and intellects and our financial abilities—not in a party spirit, not with a view to condemning the Government—but with a view to preparing a sound scheme of taxation, it is still possible, within our limitations, to develop the financial resources of this Province.

Now, Sir, referring to the speech which the Honourable the Finance Minister made on the last occasion in Poona, he made a reference to the question of certain public utilities. He has, in the speech of this year also, referred to that question. I want to be plain on this point. When I read this portion of his speech this year, I had a feeling that the Government probably wanted to go back upon their policy with regard to this matter which was enunciated and embodied in the Finance Minister's speech last year. But I am glad to note that in the reply which the

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Finance Minister made to the debate in the Assembly, he gave an assurance that the Government did not intend, did not mean to go back upon that policy. I am glad that such an assurance has been made and I want to appeal to the Government and to the Finance Minister in particular to take up the question in right earnest and to see whether additional resources can be found in that direction and on those lines. I am certain vested interests will oppose them, but let him not care for these vested interests, let him go on bravely and courageously, and proceeding on these lines, I feel certain that a considerable addition can be made to the resources of our Province.

Before I conclude, I just want to refer to one or two points. The honourable members must have noticed that our financial position is very seriously affected by the fact that we have to pay nearly 90 lakhs of rupees in order to pay interest on our debts. 90 lakhs of rupees! That is a very large sum, and I want the Government to consider whether a sinking fund cannot be established, for the purpose of reducing this debt.

Then, Sir, I will just make a brief reference to the educational policy that has been laid down in the speech of the Finance Minister. I am almost in complete agreement with the remarks on the subject made by my honourable friend Principal Mahajani. All that I want to add is that in framing a scheme of primary education you may give a vocational bias or you may not. I agree that some bias on elementary lines may be given; I have no objection to that. But in devising a system of primary education, let us not forget that we have launched on the path of democratic self-government and in establishing a system of education we have to remember that we have not only to create bread-earners, not only men who will follow some humble vocation, some humble industry which will bring them some money just enough to maintain themselves and their families, but our object is also to make them good men, citizens who will exercise their rights of self-government properly, efficiently, in the proper spirit as citizens. Therefore, in forming a system of primary education I submit that Government will take care to see that the syllabus includes studies, lessons, that will implant into the minds of the young students their duty as citizens, as men who will get the vote and whose duty it will be to exercise the vote rightly and properly. That must be done.

Then, Sir, there is one little point. I agree with my honourable friend Principal Mahajani that the Government have done well in making provision in connection with the Deccan College. My only additional suggestion will be that the scheme or the programme that will be made in connection with research in that college should also include research in political science, in public administration, subjects which are so near and dear to my heart.

As I seem to have reached the limit which I have imposed upon myself, I shall not speak more. But, if I had been so fortunate as to be able

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to get an opportunity of speaking earlier, I would have very much liked to speak on the various aspects.

I offer these remarks for the consideration of the Government.

Mr. N. S. DESAI (Dharwar *cum* Kanara) : Sir, I rise to support this budget. I congratulate the Prime Minister and the Government on the solicitude they have shown in this budget for the agriculturists and labour classes. In the budget they have made provision for village water supply and medical aid for the rural areas with special reference to the Ayurvedic and Unani systems.

Now, I come to forests. Coming from a Karnatak district, I heartily congratulate the Finance Minister on the salutary change made in the forest laws regarding forest areas immediately surrounding the villages and the cultivated areas in the Karwar district. This was a long-standing grievance which was put before the old authorities often and often, but it was as regularly denied by them as it was put before them. Nobody took any care up to this time, but now fortunately the agriculturists have got the benefit.

I now come to irrigation. Especially, in my taluka, namely, the taluka of Hangal in the district of Dharwar a project is undertaken. It is the project of Dharma reservoir and it is a big project indeed. It costs nearly 6 lakhs, but it gives a very generous return and it will benefit more than 30 villages and nearly 30,000 acres of land will be irrigated and more than 25,000 people will be benefited. Such a scheme it is. This scheme was before the Government since 1909. I do not know why it was kept back for so many years.

Mr. N. D. DEODHEKAR : Because the Honourable Mr. Latthe was not there.

Mr. N. S. DESAI : But there was some other man. Besides, there are three more major projects, sanctioned in this year's budget. There is a long-standing impression in the Karnatak that their interests will not be taken care of as the province is a neglected one. It is for this reason that they are demanding a separate province. (*Interruption*). I am glad to say that the Finance Minister has done or I say is doing something substantial for the Karnatak. Of course, he has sanctioned only Rs. 25,000 for Karnatak. I hope next year he will sanction 25 lakhs and then only I will say that he has really done substantial work for the Karnatak.

Now, I come to the local bodies. In his budget speech, the Finance Minister has referred to cuts in the grants of the local bodies. I think it may cause hardship to the local bodies. However, I must admit that these bodies are lax in their administration. I would therefore agree with the suggestion of the Finance Minister that the grants should be cut in proportion to the efficiency shown by the local bodies in management.

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Now, I come to another point which I think is rather an unpleasant one.

Dr. P. G. SOLANKI : To whom ?

An Honourable MEMBER : Inamdars !

Mr. NARSINGRAO S. DESAI : I refer to the remark made by the Honourable Minister the other day on the floor of this House against the inamdars and watandars of this Province. I am going to say something in that connection. Besides that, Sir, I read in the Marathi papers that these watandars and inamdars are enjoying the privileges as fruits of their treachery to the country in favour of the British Government.

Dr. G. S. MAHAJANI : Only some of them !

The Honourable the PRESIDENT : If the honourable member is not interrupted, he will occupy a shorter time. There should be no interruptions when an honourable member speaks.

Mr. NARSINGRAO S. DESAI : I know, Sir, why this impression prevails among the people. I am glad to know that the Honourable Minister does not associate himself with that. I want to reply to those who openly or secretly made this charge against us. I am sorry, Sir, that such an impression should prevail. That only shows lack of historical knowledge on the part of those who made this charge. In the early days of the British Government, they began to put us down. Many of our privileges were gradually taken away, and attempts were sedulously made to undermine even the social influence of this class over their ryots. Inamdars were systematically excluded from Government service. In fact, a systematic policy was followed of not giving any posts to people who wielded any influence among the ryots.

The Honourable the Finance Minister further made a remark that we were not taking a proper share of public service, and suggested that we must give our services in the public cause in future if we wanted to deserve the concessions which we were alleged to enjoy. Formerly, before the advent of British rule, or even for some years thereafter, a large part of the public services of the villages was taken up by our class, namely, keeping peace and order in the villages, settling village disputes, taking care of the poor and sick, helping ryots in times of famine and scarcity, and so on. We were doing all this. But gradually, the British Government took away these duties from us, and we were perforce rendered idle. How can we be blamed under these circumstances if we are idle ? In spite of this, we have been taking what little part we can in the local bodies, in village uplift work and so on, and if Government encourages us, we are quite willing to offer our further services to the public. To those who made these charges against our class, I will extend an invitation to study our case first and then blame us. So far as Karnataka is concerned, we were there since the days of the kings of Vijayanagar, having been invited by the previous dynasties to bring the lands under

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cultivation, keep the ryots together, maintain peace and order, make revenue collections, give help in matters military, and be the wardens of the marches and so on. We were entrusted with all these duties. The same duties were entrusted to us by succeeding dynasties, and we faithfully discharged them. Can you call this treachery to the country? The same holds good in the Deccan also, where numerous watans and inams were granted for services rendered to the Swaraj. Can it be called treachery?

Another point. With all these services, we were required to pay some duty to the then Government. This state of things continued till 1860, when the British Government thought of commuting our services, and we were forced to commute our services. For that commutation, we were to pay a further duty of six annas in the rupee to the Government. And the former duty *plus* this duty—

The Honourable the PRESIDENT: I trust the honourable member is not reading from his written speech. He may treat it as notes or as points, but he must not read it wholly as his speech.

Mr. NARSINGRAO S. DESAI: It is a difficult subject, and so I am referring to my notes.

The Honourable the PRESIDENT: The honourable member may continue to refer to his notes, but he should not treat it as a written speech and read it out wholly.

Khan Saheb M. I. MAKAN (*In Gujarati*): Can that rule not be changed?

Mr. NARSINGRAO S. DESAI: We are paying 11 annas in the rupee and one or two annas as local fund. According to our *sanad* we were not required to pay this, but still we pay it. In all, we pay 12 or 13 annas in the rupee. The balance of 3 or 4 annas, which they call concession, has been given to us for surrendering our services and giving up all our rights and privileges to the Government. So, this cannot be called a concession. It is a compensation given to us. I ask the Government whether they want to tax us still further. With all this, Sir, if any necessity arises for raising more money, then along with other classes we are also willing to bear our share of the burden. In that case you may tax us. My only request is that you should not single us out as holders of some concessions and then tax us. That is not fair. I may be allowed to point out here that we hold these holdings under a certain contract with the Secretary of State, and that contract, I am afraid, cannot be lightly set aside.

The whole trouble seems to me to be that the idea of the permanent settlement of Bengal and the United Provinces is on the brains of the people. But there is a world of difference between that system and the system existing here. On our side, tenants are practically Mirasdars. In the Karnatak I tell you though they are tenants-at-will, still they are

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tenants cultivating land from hundreds of years and that system has not been changed, and the tenants there like to hold lands from the inamdars and not from Government. On account of our terms and our treatment to them they prefer to take lands from the inamdars and not from Government. This proves that we treat them fairly. So, they hold our lands from generation to generation. Therefore, I fail to understand either the necessity or the propriety of any tenancy legislation being made by the present Government. I must therefore emphatically protest against any hasty or forced tenancy legislation. The conditions in the different parts of the Province certainly differ very materially, and if you want to do anything for the tenants, an impartial enquiry should be first made by appointing a committee and then after studying the committee's report and after knowing the real condition of the whole province, you may resort to any legislation you may think proper. Now-a-days it has become a fashion—

The Honourable the PRESIDENT: The honourable member will bring his remarks to a close within two or three minutes.

Mr. NARSINGRAO S. DESAI: Yes, Sir. Now-a-days it has become a fashion to talk of tenants as poor suffering things and the landlords as cruel monsters. As far as the conditions in our part of the country are concerned, I submit that that is an entire misapprehension. The tenants of Government lands have been given some relief only recently, that is, within the last 20 years, but we are giving them concessions such as remissions, suspensions and all these facilities since 1876, that is to say, since the days of the big famine. Besides that, there are some of our landlords who are actually maintaining the families of ryots in the days of scarcity and famine. They have given them grain for sowing, they have given them food and money and clothes in the days of famine and scarcity. These sorts of assistance they do not get from the Government.

Now, Sir, only one more point. Under the circumstances, when all these things such as the depression, famine and scarcity, etc., are coming together, the condition of the landlords is also not good. The ryots are also poor and the landlords too are poor, but, Sir, Government appear to me to be anxious to do good only to the ryots but not to the landlords. As Government, it is your duty to look to both of them with an equal eye and, as I have made out a good case for the landlords being in a bad condition, I hope you will come forward to help them in their need.

In conclusion, I emphatically object to the step-motherly attitude of the Government towards us, landlords. As a further instance of the services we have rendered to the public, I may without fear of contradiction be allowed to state that during the last elections we helped substantially the Congress to secure so many seats.

The Honourable the PRESIDENT: The honourable member has got one more minute.

Mr. NARSINGRAO S. DESAI : Sir, public service is not the monopoly of any class. It is open to all and we are of course rendering it to the best of our capacity, and my appeal to you all is that these prejudices against our privileged class should be set aside so that all may work for the uplift of the Mother and in unison. This is the only thing we want. With these words, I again support the budget and congratulate the Honourable the Finance Minister for presenting such a budget for the coming year, and then I resume my seat.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : Mr. President, Sir, in this House we have heard criticism of two types—

Dr. P. G. SOLANKI : Is that in the form of a reply ?

The Honourable the PRESIDENT : The honourable member is speaking on the budget that has been presented to this House. He is not the Finance Minister.

Mr. SHANTILAL H. SHAH : I hope to become the Finance Minister some day. [*Laughter.*] Sir, as I said there has been criticism of two types and at the root of one of the two types of criticisms lies a misunderstanding about the Congress Party, its policy and programme. The budget has been characterised as being pretentious, hollow, unsubstantial and not a budget of the masses. The honourable members who have suggested that the Congress Party has failed to implement its promises have perhaps forgotten that the election manifesto which it issued and on which the Congress contested the elections has been very carefully worded and if the honourable members had only read that manifesto carefully, they would have been satisfied that the election promises are being carried out. I would not have referred to this matter, Sir, but for the very strong language which has been used in criticising the Government policy and that is why I will take the liberty of reading two short passages from that election manifesto :

"The new legislatures hedged and circumscribed by safeguards and special powers for the protection of the British and other vested interests cannot yield substantial benefits and they are totally incapable of solving the vital problems of poverty and unemployment."

A little further on :

"The Congress realises that independence cannot be achieved through these legislatures nor can the problems of poverty and unemployment be effectively tackled by them. Nevertheless, the Congress places its general programme before the people of India so that they may know what it stands for and what it will try to achieve whenever it has the power to do so."

Then, Sir, when the Congress decided to accept office, there was a further limitation which it imposed upon itself, *viz.*, to work to the best of its ability within the four corners of the Act. If, Sir, these limitations are borne in mind—

Professor S. R. DAVAR : The question is whether you are so working.

Mr. SHANTILAL H. SHAH : The only question that remains is whether within the four corners of this Act the Congress Government

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has done what it could do within the short time which it has got, viz. the last six months. Sir, reference has been made to what the Finance Minister said about inamdars. I think he neither held out a threat nor did he give a warning to the inamdars. All that he said was to extend an invitation to them to place their case before the House. We have heard two honourable members in defence of the inamdars. I have however remained as unconvinced as I ever was and references to the past services of the inamdars have fallen flat upon me. I had hoped that something would be said in defence of the inamdars—to quote the Bible—that they were trying to earn their daily bread by the sweat of their brows. I was however disappointed. I am one of those who believe that instruments of production must not be private property and that land should not be owned privately by individuals. That, however, Sir, is a far cry, but if the inamdars, who have tried to justify their existence on the ground of services rendered, would only agree to part with some of their money by way of taxation in the interests of the poor, the Government would be in a position to carry out its promises. I am sure the inamdars will agree to make sacrifices in the cause of the poor of this country.

The excise policy of Government too has been misunderstood in some respects. Criticism has been levelled at the increase from excise revenue. It appears at page 17 of the Civil Estimates that there is an increase of 10 lakhs under the head "Country spirits" and an increase of 2½ lakhs under the head "Distilleries". This increase is not due to any increase in the sale of liquors but has been entirely due to the policy of the Government in the past. In the past, it was the policy of the Government to increase the liquor shops and this was done to such an extent that the law of diminishing returns set in. As the number of shops is now being reduced the shops that are put for auction fetch a higher price. This does not mean that the Government is not implementing its policy; it does not mean that the consumption of liquor has gone up. It seems that though the consumption of liquor is going down, the income has gone up. It will be fair to ask the Government in pursuance of their policy of prohibition to decrease the consumption. If the consumption is decreased and the revenue is increased, I do not think that Government could be blamed for it. It is not fair to ask the Government to decrease the revenue. One can only ask them to decrease the consumption.

The main criticism of the honourable member who has been associated with labour is that the policy of Government with regard to labour has not been satisfactory. My only answer to that is that he is a critic of the type mentioned by the Honourable the Finance Minister towards the end of his budget speech in the Assembly—an impatient idealist. If he had only read that portion carefully, he would have found an answer for all his questions which have been anticipated by the Finance Minister. It is there stated "The Ministry have just been able to lay foundations of the many-sided work they wish to do". I wish he had only waited to see what structure they are going to raise on the foundation they have laid. Within the short

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period of six months they have been in office, Government have done enough to show that they have not been negligent to labour problems. First and foremost, they appointed the Textile Wages Enquiry Committee to whose integrity and impartiality even the honourable member Mr. Stones paid a compliment. Four and a half lakhs have been set apart for improving the housing accommodation for labour. One lakh has been provided with a view to give social amenities for labour. As a part of their excise policy, Government have decided to close toddy and liquor shops on pay days and the days next after the pay days. It will interest honourable members to know that the consumption of liquor and toddy on the pay day is three times the quantity consumed on an average day; and the consumption on the day subsequent to the pay day is about $2\frac{1}{2}$ times that on an average day. It will be seen that the consumption on the pay day and on the day following is equal to one-fifth of a month's consumption. The Factories Act and the Payment of Wages Act have been applied to the smaller factories employing ten or more labourers. Creches have been made compulsory in all factories employing more than 100 female labourers. A Bill is under preparation for regulating and settling labour disputes. It has been foreshadowed that plans for leave with pay, medical attendance during the sickness and establishment of employment exchanges are under the consideration of Government. All these must have occupied a considerable portion of the time of the Government during the six months they have been in office; these ought to satisfy my honourable friend. As regards my honourable friend's desire to control house rents, I submit that the controlling of house rents alone will not solve the housing problem. Along with the control of rents there must be an increase in the supply of houses. I, therefore, request that he should suggest means of increasing housing accommodation suitable for labouring and other classes along with the control of house rents.

A reference was made by the honourable member Professor Mahajani to the High Court. As I am connected with the High Court, I would say that there are several matters which require drastic changes in the machinery with which the High Court works. First of all, litigation has become very costly and it is now almost a luxury for the rich. The fees that a litigant in the High Court has to pay cannot be paid by an ordinary man—

Professor SOHRAB R. DAVAR : What about the solicitor system ?

The Honourable the PRESIDENT : The honourable member must be allowed to continue his speech without interruptions.

Mr. SHANTILAL H. SHAH : Dealing with the subject of reducing the cost of litigation, I have no hesitation in expressing my personal opinion that I am for the abolition of dual system.

The number of holidays which the High Court enjoys comes to about six months. Out of the 52 weeks in a year, the three vacations occupy 12 weeks. Of the remaining 40 weeks, the Judges do not sit for two days

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in a week which comes to 80 days or about 11 weeks. Other public holidays come to about 2 weeks. Altogether, for nearly 26 weeks in the year the Judges do not sit. If Government can exert their influence on the Judges of the High Court to put in more work, it will go a great way not only to reduce the cost of litigation but will make a saving in the total expenditure incurred by the Province on the High Court. In this connection, I may also mention that heavy salaries are paid to several officers, e.g. the Official Trustee, the Official Assignee, the Official Receiver, the Government Solicitor and the Advocate General. All of them receive salaries disproportionate to the average income of an inhabitant of India. The standard which the Ministers have set may be followed by them.

Professor SOHRAB R. DAVAR: What about the salaries of the Judges ?

Mr. SHANTILAL H. SHAH: The Judges are beyond our control.

Next, I should like to make a brief reference to the amelioration of the condition of the Harijans. Since the assumption of office by Congress, they have raised hopes in the minds of the Harijans. I suggest that the Government should press the municipalities to construct wells for the Harijans and to consider the question of increasing the wages of their Harijan employees. Government may offer to give lands to municipalities to build houses for the accommodation of the sweepers and press them to put up buildings on them. The municipalities may be asked to place them on permanent service and provide for sickness and maternity benefit, provident fund and other advantages and their hours of work should be regulated. If the municipalities give effect to these suggestions, it will go a great way to do good to that strata of society which is very much oppressed today.

Government are moving in the direction of industrialisation. Government propose to carry out experimental work, and if any loss is incurred, it will be borne by the Government. If they succeed in their experiments and start the schemes, I trust they will not pass on the schemes to the capitalists for making profits. I suggest that they should investigate possibilities of manufacture of tinctures, fruit and fish canning, soda ash, chlorine, etc. There is another thing. Today a large amount of molasses are going to waste. Out of molasses methylated spirit and power alcohol can be manufactured. As in some other countries Government may undertake legislation so that the Petrol Companies will be compelled to mix power alcohol with petrol before sale. Thus power alcohol will find a good market. Then, there is a large quantity of crushed sugarcane, called *bagasse*, going to waste. I am told that it is possible to make straw boards and artificial silk out of this. If Government carries on investigations in this direction, these bye-products available from the manufacture of sugar can be utilised and it may be possible to reduce the price of sugar, which opens up the possibility of levying a small sales tax on sugar. I understand that there is some difficulty with regard to the

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definition of "excise" duty. On a reference to Halsbury's Laws of England I find that "excise" duty is defined as a tax on articles produced and consumed in the country itself. I do not know whether there is any decision on this point, but I understand that there are decisions in Australia on this point. I have not had occasion to read either those judgments or the Acts under which those judgments were given. But if the Central Government is going to stick to the attitude which they have taken up, the future financial resources of this province are likely to be crippled very much. I, Sir, would have requested the Government to go to the Federal Court and have this matter litigated as between the Government of India and the Provincial Government, but I feel that it may not be proper for this Government to take resort to an Act which we are out to break and which we do not want.

A suggestion has been made by my honourable friend Mr. Karanjia that the Provincial Government might take advantage of the present easy conditions of the money market by raising a loan of their own in the open market and pay off with the proceeds their debt to the Government of India. His suggestion was to raise a loan at 3 per cent., instead of paying $4\frac{1}{2}$ per cent. to the Government of India as they are doing at present. I find from the budget memorandum that the rate of interest fixed for our loan is $4\frac{1}{2}$ per cent. and the repayments are fixed as equated payments spread over a period of 45 years. Unless, however, the Government of India agree to a change in the mode of repayment, I do not think it will be possible for us to take advantage of the easy conditions in the money market.

With reference to liquor, the criticism was made that while on the one hand the Government was pursuing the policy of prohibition, on the other hand it was selling liquor very cheap in some parts. That criticism is based on a misunderstanding. I understand, Sir, that Government is selling liquor cheap in some districts in order that illicit distillation may be stopped. I am informed that in an area with a population of 12,000, in one year the inhabitants have paid fines amounting to about Rs. 60,000. Now, Sir, the inhabitants of the parts could not have paid those heavy fines but for the fact that not only they manufactured illicit liquor for their own consumption but also sold it in neighbouring villages. Thus, they endanger the success of the policy of prohibition which the Government have undertaken. I may also say that this method of controlling illicit distillation by lowering the price of liquor and taking stricter measures of control was tried in other countries and has been found successful.

Mrs. HANSA JIVRAJ MEHTA : Sir, I do not wish to take much time of the House, but, Sir, certain criticisms were made with regard to the Educational Policy of Government, and hence I have risen to reply to the criticisms. The honourable member Professor Davar said that Government had shirked their responsibility for mass education. I cannot understand how the honourable member could have made that remark in

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the face of the fact that a substantial sum is allotted for educational purposes. Probably the honourable member feels that Government should have introduced universal compulsory primary education immediately. He is a practical man, he is a business man, and I should like to ask him this question, whether such a thing is possible in the present state of things. There are about 21,000 and odd towns and villages in this province. Out of these, about 12,000 and odd villages are without schools today. If we have to introduce universal compulsory primary education in the province, it means that Government have to provide schools for all these 12,000 and odd villages.

Professor SOHRAB R. DAVAR : I never wanted immediate introduction. My complaint was that there was no movement in that direction.

Mrs. HANSA JIVRAJ MEHTA : I am just telling the House that it is not possible immediately. I may, however, tell the House that Government has a plan for extending primary education. Apart from the cost, I should like to tell this House that we have not got a sufficient number of teachers, and for that reason also we have to wait for five years or even ten years, before we can introduce universal compulsory primary education.

Professor SOHRAB R. DAVAR : That is what I thought.

Mrs. HANSA JIVRAJ MEHTA : The training of teachers is the primary need today, and Government have appointed a committee. As honourable members know, only 50 per cent. of our teachers are trained today. If we wish to improve the quality of the present education, it is also necessary to provide trained teachers. For that reason also, this committee is appointed. When they have made their recommendations it will be possible for Government to speed up the training of teachers, and thereby increase their output; we have allotted quite a substantial sum for the training of teachers and also for the improvement of the output of trained teachers.

With regard to our policy of expansion, this year we are going to open 200 new board schools. The policy is this: these 200 village schools will be opened in villages with a population of 950 and over. The policy of Government is to provide villages which have a population of 950 and over with schools. Next year, if funds permit, another 200 schools will be opened in villages, say with a population of 750 and over.

Professor SOHRAB R. DAVAR : Slow up your prohibition programme.

The Honourable the PRESIDENT : The honourable member will not interrupt. It is due to the honourable member that she should be allowed to continue without interruption.

Professor SOHRAB R. DAVAR : I was asked a question, and I am trying to answer it.

Mrs. HANSA JIVRAJ MEHTA : I may tell the honourable member that there are about 8,000 villages which have a population of less than 400. It is very difficult, and it will be very costly too, to open board schools in these scattered villages. If we have a school for, say a group of villages, it might be possible to introduce compulsory education very soon. But there again, the question of roads comes in. The villages are without good roads, and it will be very difficult for us to convey children from their villages to the school. As honourable members know, we have a programme of seven years for roads. With all these taken together, it may be possible for us to cover all the villages with schools within a very short period. In the meanwhile, Government are asking for private help in the sense that Government will give a small aid to private agencies, whether individuals or societies, to open schools in those villages which are without schools. This aid will take the shape of a *per capita* grant, the maximum grant in any one case being Rs. 200 a year. And Government hope that retired teachers might be able to take advantage of this grant and open schools in these 8,000 villages. A very substantial sum has been allotted for that purpose also.

But primary education is not the only problem. Today, we have the problem of adult illiteracy also before us. And if I give figures to this honourable House, they will be simply staggering. We have in this Presidency a population of one crore and seventy odd lakhs. Out of this, the adult population is 92 lakhs and odd. Out of these 92 lakhs and odd 80 lakhs and odd are illiterate, which means that 86 per cent. are illiterate. There are two kinds of adult illiterates. There are those who have been to schools but have forgotten what they learnt and there are those who never went to schools. Unless we are able to provide means by which literacy can be retained, it will be absolutely useless to waste money on primary education. For this reason, Government have allotted a very substantial sum for adult education, 70,000 recurring and 1,25,000 non-recurring. Out of this, 50,000 will be used for village libraries, because as you can see, that will be one of the means of retaining literacy. We have already opened centres for adult education. Government provided Rs. 10,000 in the current budget for the purpose. These centres have proved very satisfactory and the cost is also not very enormous. It comes to about Rs. 400 or little over a year, so that with Rs. 70,000 it will be possible to cover a very large area with such centres, for mass education. I think the honourable member has no right to say after hearing this that Government shirked their responsibility with regard to education. [*Professor Sohrab R. Davar* : I am not satisfied.] Some people are difficult to please. I am not going to go into the various items of educational expenditure. The Honourable the Prime Minister gave a detailed scheme in the Lower House and the honourable members will be able to know about it. But I should like to reply to some of the questions that have been pointedly asked to me by the honourable member who is closely connected with education.

With regard to Wardha scheme, as reference was made to it, I should like to say that I do not wish to go into the merits or demerits of the

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scheme. A committee has already been appointed to consider that scheme along with other proposals, but there should be no apprehension in the minds of members that Government is going to introduce any scheme universally all over the whole Presidency without making experiments beforehand. Whatever recommendations this committee may make, Government have already decided to open a central school where vocational bias will be given in each taluka, one school for boys in each taluka and one school for two talukas for girls. The honourable members should not think that we are neglecting girls' education. It is for want of teachers that the number of girl-schools will be less. When we are able to get a larger number of teachers, the girls' schools will also proportionately increase. Then the honourable member suggested at the last budget session that those children who have put in at least one year should be compelled to go through the whole primary course. This was investigated and it was found that wastage is due not so much to the fact that children who join school leave before going through the whole course. The problem is, these children stagnate in the lower standards and that is why, when they leave school after say four or five years, they are absolutely illiterate. The cause of stagnation was also investigated and it is due to the one-teacher schools. Today 50 per cent. of our schools are one-teacher schools and the teacher, when he is not properly trained, is unable to tackle so many children. That is why we want all our teachers to be trained. That is also the reason why we have now decided—at least we have sent a circular round—that part-time instruction should also be encouraged. Part-time instruction means for one thing the shift system, i.e., some classes to be taken in the morning, some classes in the afternoon. These are experiments. I do not know what the result of these experiments will be. But that is one way of tackling the problem of stagnation. We are told that if we introduce compulsion, as the honourable member has suggested, it might prevent parents from sending their children altogether. It may have a very detrimental effect and that is why we have not brought forward any such suggestion. [An Honourable Member: It was in Madras.] This is what we have found here.

With regard to conversion of some of the boys' high schools into girls' schools, that is also a proposal before us and we are investigating. The suggestion about the Grant-in-aid Code and the other suggestions that the honourable member has made, are also receiving attention of the Government. The honourable member Mr. Joshi said that there is no provision made for the new machinery that Government wish to introduce. The new machinery will come into force when the Act is amended. A Bill is already prepared and will be introduced during the course of this session. The main change will be that Government will appoint the Administrative Officers themselves. Also they will strengthen inspection. Now it is quite possible for us to adjust expenditure in such a way that it may not be possible to spend any further amount on this new change and that is why for the present no provision has been made, but it does not mean that Government is not contemplating this new machinery.

The Honourable Mr. A. B. LATTHE : Sir, during the two days, the Government must admit, they have received so many and so various and useful suggestions from all sides. But the very number of these suggestions and the variety of subjects dealt with makes it impossible that I should be able to deal with everyone of these proposals in the course of a reply at this hour. I would classify these criticisms. First of all, there is a class of criticism which is based on incorrect information.

Probably, if correct information is supplied, those criticisms might disappear. The second class of criticism is that of those who agree with the point

of view of the Government, between whom and the critics there is very little difference of opinion, but there is a difference with regard to the pace at which the one side or the other side may think it desirable or possible to proceed. That may be a question of impatience on the one side and patience on the other. There are criticisms of that kind also. The third class is that of those who take an entirely different point of view from that of the Government. I will not give a complete classification of all the suggestions that we have heard during the last two days. That will take a very, very long time, nor is it very necessary. I told the House on the last occasion when I spoke about the budget in Poona that though I may not refer to all the suggestions, that does not mean that I ignore them. I hope honourable members in this House have found that though I may not have agreed with all the suggestions made and though I may not have found it possible to carry out all the suggestions, there is no reason for any one to suppose that I have ignored any of the suggestions made. I will repeat the same thing today and assure honourable members that though I may not refer to all the suggestions made to me on this occasion, that should not be understood to mean that I attach no value to them.

Now, taking the first class of criticism, I would say that the reference which I made to the question of the alienees of land revenue in this Province has been rather misunderstood by some honourable members here. When I spoke on that question two days ago, I distinctly stated that I was not putting before this House any conclusions arrived at by the Government. I did state that I was not looking at the inamdars from the point of view of my honourable friend here who does not believe in any private property. I was not speaking from any point of view of that kind. But I repeat with all the emphasis at my command that a class of society, which depends on sanads and laws, which cannot justify its existence today has no right to exist in modern times. My honourable friend Mr. Stones and, I think perhaps, my honourable friend Dr. Mahajani thought that my observations meant expropriation. Well, in that sense every tax that is levied is expropriation. On the last occasion what I said in the end was that if this class cannot justify its existence, some taxation may be justified. That is all that I said—some taxation on that class may be justified. Do the sanads mean that there will be no justification for it for ever? If the inamdars are labouring under that illusion, the sooner they correct themselves of it the better. I have no reason to be against that class; let me make it perfectly clear.

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Some of my nearest relatives are inamdars. But it is obvious that, whether you belong to the class of alienees or to any other class, whether you belong to the class of millowners, whether you belong to the class of lawyers, or to any other class, it is necessary that your existence must be to a certain extent justified if you claim the sympathy and the support of society. If you are going to stand on the strength of the sanads issued to you by the Secretary of State, very well, then you stand on the strength of those sanads, and that is your look-out. What the meaning of those sanads is, is a question for lawyers. Whether those sanads allow taxation or not is a question for the future Government: by "future" I mean the Government which will have to decide the question tomorrow or any other day. That will be a question also for the legislature. Many classes in the world have claimed such privileges—I mean many other classes outside India—and we know what the result has been. As a friend I spoke the other day. As a friend of this class I again say, unless you are able to justify your existence in the structure of Indian society, your days are numbered. I hope the friendly advice that I gave—it is neither a threat nor any other thing of the kind—to the class of alienees will not go unheeded, and if it goes unheeded, it will be the worse for them and not for me.

Dr. G. S. MAHAJANI: Associate them with your enquiry: that was the suggestion.

The Honourable Mr. A. B. LATTHE: I am very thankful to the honourable member for reminding me about it. But what are we doing at present? At present we are collecting all the facts, to see what are the classes of inams that have been granted, what are the conditions on which the inams have been granted, what is the extent of each class of inams, and so on. These are the enquiries that we are making from the various officers who are experts in these matters. How are we to associate any inamdar with this? I think my honourable friend Dr. Mahajani can easily see that at this stage, when we are collecting all the facts, when we are preparing notes with regard to each class of inamdar and when we are ascertaining all these things, it is impossible that any other person could be of any help in these enquiries. When the stage arrives when we formulate certain ideas, certain new proposals for the future, then it will be for the inamdars to put their case before the Government and before the legislature. But that occasion has not yet arrived. I have stated over and over again that we have come to no conclusions, that we are simply making enquiries about all the facts; and those enquiries are being made through the pillars of conservatism in India, the I. C. S. officers in all the districts. So the inamdars need not be anxious that these enquiries are going to lead to any expropriation. Nothing of the kind. We are just at present collecting information, and when the information is in our possession and we formulate certain views, then it will be the proper time for the inamdars to come forward and say that their side should be heard. I hope my honourable friend Dr. Mahajani is satisfied with the attitude we are adopting.

Dr. G. S. MAHAJANI : They should get ample time before proposals are brought to the legislature.

The Honourable Mr. A. B. LATTHE : Certainly. There will be ample time ; they will get ample previous notice of anything that the Government may propose in the future.

Mr. NARSINGRAO S. DESAI : It is only your enquiry that we want. You may enquire and then do what you like. ✓

The Honourable Mr. A. B. LATTHE : Yes. Then, Sir, I must very sincerely congratulate honourable members in this House for the great interest they have shown in the poor agriculturists of this Province. Unhappily, I was not present when my friend Professor Davar spoke yesterday. But I came to know afterwards that he had very big ideas in his mind which he put before the House with regard to the improvement of the economic conditions of our agriculturists. I am very thankful to him and to all the other members who referred to this question with regard to the agriculturists. It was suggested to us that if the condition of the agriculturists is to be improved, then more irrigation is necessary. I hope I am not misinterpreting what Professor Davar has said. With regard to this, let me point out one or two things to the House. It was stated that irrigation has already been a paying proposition in this Province, that there is a return of $3\frac{1}{2}$ per cent. or so, and therefore it is a good investment for Government. Obviously, the inference is that it is a very good thing for the agriculturist. I deny both of these statements. I think my honourable friend Professor Davar referred to some figures in the Budget.

Professor SOHRAB R. DAVAR : The figures in your speech.

The Honourable Mr. A. B. LATTHE : The fact is this. Previous to the reforms of 1921 the Government of India and the Government of Bombay were not two watertight separate compartments and the Government of India made grants, and a large amount was spent out of the current revenues of the Government of India, on irrigation works. So, when we say that 4 or 5 crores of rupees are outstanding today in the irrigation account it does not mean that that is the total capital outlay. Then when the Niemeyer settlement was made about the debts and a sum of Rs. 22 crores or so was fixed to be the debt due from the Bombay Government to the Government of India, an account was made between the two Governments and the various items were adjusted and at that time the debt of about 4 crores of rupees incurred by the Bombay Government for their irrigation system was adjusted between the Government of India and the Government of Bombay and that is not shown in these figures. The total expenditure up till now on our irrigation comes to 10,72 lakhs of rupees and they bring about net receipts of about Rs. 11 lakhs and we have to pay Rs. 42 lakhs as interest, so that there is a clear loss of Rs. 31 lakhs every year on account of these irrigation works in this Presidency. The House will see that it is not a good investment at all. The whole Presidency, every tax-payer in this Presidency, has to contribute to an

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annual loss which the Bombay Government has to suffer because of these irrigation works here. Of course, I do not deny that there are some indirect benefits which the public as a whole get on account of the prosperity of those who happen to possess lands on the canals under these irrigation works. But recently, I must add here, the agriculturists who happen to possess lands in the areas commanded by these irrigation works have been complaining bitterly that their lands have deteriorated; that they have not been able to utilise the water from the canals, and that those who try to utilise the water have run into greater and greater debts, with the result that there is a wail from all these canal areas in the Bombay Deccan. It is in order to investigate this problem, to find out why the agriculturist is suffering, and the Government is suffering, that a Committee under Sir M. Visvesvaraya has been appointed and that Committee is today considering the whole question. I myself think that irrigation and more irrigation should be of very great benefit to the agriculturist. That is obvious. In a country with immense lands, with immense big rivers flowing into the seas on both sides and with precarious rainfall which we have, an irrigation system obviously should be of great benefit to the country. There is absolutely no doubt on this *a priori* reasoning. But the actual experience has been that everybody concerned in these irrigation works, the Government, the agriculturist and the province as a whole have suffered very very enormously in the past. That does not mean that we have given up the task of extending the irrigation system and, as honourable members must have seen, we have tried our utmost to survey new schemes to provide for small irrigation works, we have provided about Rs. 12½ lakhs for this, and we have undertaken to examine certain big schemes also, not because they belong to the Karnatak as my honourable friend seemed to suggest. I never think that I am of the Karnatak, or Maharashtra or Gujarat. In Maharashtra we have a large number of irrigation works whose full possibilities have not yet been exhausted and the water still runs to the ocean without being used by the people. So there is no question of any more works in Maharashtra for the present. In Gujarat also we have taken up one scheme which the engineers told us, is promising. That is being taken up after the final revision which we hope will show that the scheme is worth taking up. But we are also told that there are great difficulties in pursuing schemes of irrigation in Gujarat. The other day I was told by an engineer working in Gujarat that there was one scheme in Gujarat somewhere near Ahmedabad, but the catchment area and the reservoir which has got to be constructed are in the territory of the Gaekwar of Baroda. My honourable friend on my right Mr. Dadubhai Desai suggested that we should put a screw on the State. Well, the Provincial Government have no screw at all in their hands. It is the Government of India who can do something, but I think, knowing the political situation in the country well, nobody would expect that the Government of India would be inclined to put any screw upon any Indian State in a matter of this kind. All the same, we might try to induce the Maharaja of Baroda, who is a very enlightened ruler, and then it may be

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possible that by inducement we may secure the consent of the Baroda State for any project that may be possible in Gujarat.

However, all these things are only just ideas which have got still to be pursued and I do not wish to convey the impression that we are taking up these schemes definitely, or executing them today or tomorrow, nor that we are not going to execute them. They have got to be examined still. We know what a heavy cost it is for us to undertake any scheme without complete examination. The honourable House knows that we have sanctioned about 12½ lakhs for minor irrigation works this year, but we have made inquiries, and when we heard of the great Lowsley schemes as they are called of minor irrigation we found that some of the schemes which were included in the category of Lowsley schemes had failed. In the Satara district I can say of one tank which was constructed under that scheme and which had not a drop of water. I hope the House will understand our feelings. They will appreciate the Government's cautiousness in requiring that all these schemes must be re-examined, must be re-investigated, and then only we shall spend our monies on these schemes.

Professor SOHRAB R. DAVAR : We trust you will accelerate the pace.

The Honourable Mr. A. B. LATTHE : I am not myself an engineer, nor is any member of the Government an engineer. And in such cases we have to depend upon engineers. I can assure the House that we are doing our utmost to push on and make this slow big machine of Government move as quickly as we possibly can. But I must confess that it is such a big machinery and it has been accustomed to move so slowly that we have not very much succeeded as yet, but I hope we might try to move it a little quicker later on.

In this connection I may just try to explain the difficulties raised by certain honourable members on account of the fact that we have not spent all that we promised to spend in August last. The other day my honourable friend Mr. Joshi pointed out certain items which showed that we had not been able to spend all the moneys that we had intended to spend. With regard to this, I ask the House to consider one question. We do wish to spend money : every one wishes to spend money for a good purpose. But do we want to waste that money ? If we find that proper schemes are not ready, if we find that the agency is not ready to undertake the work, what are we to do ? Immediately the Budget was sanctioned in August last, we wrote to every Collector to spend the allotted money before the end of the year. We wrote to the officers to spend all the 10 lakhs allotted for water supply before 31st March ; and in order that the Collectors and the civil servants and the whole of the bureaucracy should not move in their own usual routine, leisurely fashion, we associated the honourable members of this House and the other House with the Collectors in this work. We also said that these members of the Legislature, the Collector, the president of the district local board, together with any good social workers,—all these should

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put the scheme forward as quickly as possible and spend every pie out of the 10 lakhs before 31st March. But later on, not the Collectors, but our own friends, the members of the Legislature, began to complain to us; they said, "Why do you want to waste all the money? We cannot spend it except in April and May when the season is hottest". The wells cannot be dug to the deepest point except in April and May when the water level goes down, and it is no good digging a well in February or March. They said, "If you dig a well in February or March and leave it there, the consequence is that in April and May there will be no water in the well. (*An Honourable Member*: "You did not know it before?") I thought the honourable member who asks the question knew it and that he would have suggested it here.

An Honourable MEMBER: You sanctioned the amount. Did you not know it?

The Honourable Mr. A. B. LATTHE: Unfortunately, the members of the Legislature also did not know it.

So, my point is that we tried to see that the amount sanctioned in August last was spent as quickly as possible. But we did not want that public money should be wasted so that we should be able to show that all the money we promised to spend had been spent. We did not want to do that. We are not going to do that in future also, whatever any member may say.

Mr. B. N. KARANJIA: You did not allow the grant to lapse?

The Honourable Mr. A. B. LATTHE: There is no question of the grant lapsing.

This is just to explain why some of the amounts which were sanctioned for expenditure were not entirely spent.

Something was said about the lump grants that have been made. I did try in my opening remarks here to explain what my position was. Still, the same criticism was heard today in this House. Therefore, I think I must repeat again that I am entirely at one with every member of this House in the view that every grant should be made after complete and detailed examination and that the details should, as far as possible, be placed before the Legislature. There is no doubt about this. But then, I said in the Lower House, and I repeat it here, that there are certain circumstances in which that becomes impossible. If we seek to do that in every case, it might cause a lot of delay which, I think, some honourable members here would resent. Take, for instance, grants for education. We know that we could not give you details. The reason was that we were awaiting the results of investigations which are being made by two or three committees which are sitting now. If, however, we do not make these demands today, then we have to wait for at least six months, till August or September, when the Legislature might meet in Poona. That means that we have to lose at least six months.

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If we get the reports in a month or so, a month or two might be required for consideration by Government, and then immediately we might set to work on the schemes for which these amounts have been earmarked in the Budget. I might even go a step further and say that as soon as the detailed schemes are ready, they will be placed on the tables of both the Houses. Please do not misunderstand me. I do not mean that they will be again submitted for sanction. I do not say that. But in order to satisfy honourable members that all the schemes have been completely worked out, I promise that the schemes will be placed on the tables of both the Houses. If any honourable member thinks that there is any mistake or there is anything of sufficient importance to be brought before the Legislature, of course he will be free, by means of questions or resolutions or in any other way, to discuss the schemes on the floor of the House. So far as Government are concerned, I will place those detailed schemes, as soon as they are ready, on the tables of the two Houses. I hope the House will be convinced that there is no idea of taking a blank card and spending the money with some secret ideas in our minds. There is no secrecy at all about these things. I have explained the reason why we were not able to give the details at this stage. The reason is that enquiries have not yet been completed. There were other reasons also. One reason was this, as I stated in the Lower House, we did not know what money would be really available to us till a very late stage. We did not know what the Niemeyer Award would bring us. That question was in a very indefinite condition for a long time. We were once led to suppose that we would be getting much more than what we actually hope now to get. That was also one reason why we could not work out schemes for all the amounts that we later on got.

I do not think that I should take very much of the time of the House now—

Dr. G. S. MAHAJANI (*showing a passage from the Honourable the Finance Minister's Budget speech*): That is what the Honourable Minister said on the last occasion, and to which I referred when I spoke.

The Honourable Mr. A. B. LATTHE: I may have said it as a rough guess, but on that point, may I tell my honourable friend that some time ago we requested all the Collectors to try to make a complete scheme of the requirements of their districts? I think it was two months ago that the request was made. I hope the members of the Legislature who are members of these district committees will devote their attention to this work and will not leave it to the bureaucracy but will take care to make a complete scheme of the requirements of the villages in their own districts. I purposely refer to the fact that honourable members should not depend upon the reports of officers. Last time, after the amount was sanctioned, we got a list of all the water works for villages which were prepared under instructions from our predecessors. Of course, I could not examine those lists in connection with other districts of which I had not much personal knowledge, but I happened to

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see the list of my own district and found that at least in two cases villages on the banks of very big rivers had been allotted sums like Rs. 5,000 and Rs. 2,000. I was really wonderstruck to see how any officer or anybody could have made an estimate of an expenditure of Rs. 5,000 for digging a well in a village which was situated on the bank of a river like Krishna. But they did it. (*Interruption.*) I will not accuse anybody. I did see a few instances of this kind. If honourable members wish that the real needs of the districts should be reported to Government, and if they exert themselves, I hope that a complete scheme will be ready soon. If necessary—this is already in our minds—a loan may be floated for the purpose of supplying all these needs of the villages once for all, and the loan may be liquidated later on by annual payments. I would even go so far as to do that.

Dr. P. G. SOLANKI : On a point of information. What will be the fate of the suggestions made by the members of the district committees? There will be recommendations from the Collector, the mamlatdar, the president of the local board, and also private members who are on the district committee. If private members of the committee make their own suggestions, what will become of them? Will they be taken into consideration and carried out?

7.30 p.m.

The Honourable Mr. A. B. LATTHE : I hope that my honourable friend knows that in each district a committee has been formed with the Collector as chairman and the members of the legislature in the district and the president of the local board as members. So, the proposals which should come to Government should not be the proposals either of the Collector or of any individual member, but of the whole committee. Of course, the committee will decide upon the recommendations made by each individual member. I hope that is perfectly clear.

I do not wish now to detain the House more than just to refer to one point. My honourable friend Mr. Joshi the other day waxed very eloquent with regard to our failure to carry out our labour programme. Some honourable members here have been accusing us of not taking proper care of education. Other honourable members have been accusing us of not taking proper care of irrigation works. One honourable member, who was glad that we were making a survey of irrigation schemes in Karnatak, was hesitating to give me his compliments because he thought we might not be able to carry out those schemes next year. There are thus so many claims and counter-claims on us. My honourable friend Mr. Stones, and I think also my honourable friend Mr. Karanjia, said that Government was blundering, blundering like anything, in accepting the report of the Textile Labour Enquiry Committee. From every side, from every member, we have been receiving all these, I won't say kicks, but criticisms. But I am not sorry for these criticisms. I can understand why these criticisms come. I know each of these members looks at every question from his own point of view. My honourable friend Mr. Joshi represents Labour; he thinks that all the

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needs of Labour must be met. Another friend, who comes from the mofussil, thinks that the needs of the agriculturists should be met. Friends who have got interest in the mills, think that the millowners should not be disturbed. People who have got shares in electricity companies think that our electricity policy is ruinous, because the prices of the shares are going down. All these things we can understand. We could have avoided attacks at least from one side, we could have at least one class of people definitely behind us, if we were a party such as the honourable members have in mind. If we were a party of Labour, or of tenants, or of landlords, or of millowners or capitalists, then we could have had at least satisfied one side. But what is the position of the Congress? The Congress does not want to be a labour party, or a millowners party, or a landlords party or a tenants party; the Congress's aim is to win maximum power and get freedom for this country. That we cannot hope to do with the help only of the tenants or the landlords, the labourers or the millowners, the rich or the poor. We have to unite the whole people. I do not say that we have succeeded in doing it. We know that we have to adjust the different claims of labour and capital, rich and poor. Naturally, instead of pleasing all, perhaps we will displease all. But we take that risk. It does not matter if everybody is displeased. Our conviction is that this is the only way in which we can unite the people of India. The only way for achieving the purpose we have in view is to unite the Hindus and the Mahomedans, the landlords and the tenants, the millowners and the labourers, in fact everybody who is in India. We want to unite every one of them, and in order to do that we cannot satisfy any one class entirely. I might have in answer to the honourable member Mr. Joshi shown the expenditure incurred by Government of 3½ crores for housing labour in Bombay City. Of course, it may have been a failure; we do not deny that. But that is not our mistake. But today we have to pay the interest on those 3½ crores, and that is a burden on the general taxpayer imposed for the housing of millhands.

Mr. S. C. JOSHI: Tax them.

The Honourable Mr. A. B. LATTHE: Tax whom?

Mr. S. C. JOSHI: The millhands.

The Honourable Mr. A. B. LATTHE: We have to tax them, if necessary. We are prepared even to lay down our lives if necessary; therefore, we are not afraid of taxing even the poor if the necessity arises. I could give the answer that for these 4 or 5 lakhs of millhands, the interests of millions of our agriculturists are not going to be ruined. How much burden do you want to put on the agriculturists? I am coming from the mofussil, and I would ask on behalf of the agriculturists,—the agriculturists who are as poor as the millhands, who are many times more numerous than the millhands—when you are saying that housing must be provided for millhands, this must be done and that must be done, how much burden is the poor taxpayer in this presidency to bear?

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While I have my sympathies for labour, if you say that you are not going to consider the other claims on the purse of Government, I cannot agree with you. We have to consider all these claims, and we have to adjust our resources to the various claims which are upon us. The depressed classes say: "You are giving us a paltry sum of Rs. 1,00,000 or Rs. 50,000 for our secondary education." My Muslim friends say: "There is so much ignorance in our community. What have you done?" Then there are the intermediate communities also; they are all clamouring for education. Then the advanced classes clamour for higher education. My honourable friend Dr. Mahajani and his friends in Poona are clamouring for a university in Poona. I am not blaming anybody. But what I say is that all these claims we have to meet to the best of our ability with the resources at our command. If in pursuing this method of adjustment and compromise, we do not please everybody, well, we are not sorry. This is the attempt which we have made in this budget, and we have honestly tried to meet the demands and needs of every class and every community in this province. That is our aim today, that has been our policy in the budget; and, whatever one-sided people might think, that is going to be our policy so long as we are in office.

BUSINESS OF THE HOUSE.

The Honourable Mr. A. B. LATTHE: The Finance Bill and the Tobacco Bill will be submitted to the House day after tomorrow. The Tobacco Bill was passed by the Lower House today. We may take up the Finance Bill first day after tomorrow; and the Tobacco Bill may be taken up afterwards.

The Honourable the PRESIDENT: Then, we meet on Thursday, the 10th?

The Honourable Mr. A. B. LATTHE: Yes.

The House then adjourned till 2 p.m. on Thursday, the 10th March 1938.

Thursday, the 10th March 1938

The Council re-assembled at the Council Hall, Bombay, on Thursday, the 10th March 1938, the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.

BHOSLE, Mr. M. G.

CURRIMBHOY EBRAHIM, Sir

DAVAR, Professor SOHRAB R.

DEODHEKAR, Mr. N. D.

DESAI, Mr. DADUBHAI P.

DESAI, Mr. NARSINGRAO S.

DESAI, Sardar Rao Bahadur CHANDRAPPA B.

GANDHI, Mr. RATILAL M.

GUIDO, Mr. T. M.

HALDIPUR, Mr. S. R.

HAMIED, Dr. K. A.

JOSHI, Mr. S. C.

KARANJIA, Mr. B. N.

MAKAN, Khan Saheb MAHOMED IBRAHIM

MEHTA, Mr. CHINUBHAI L.

MEHTA, Mrs. HANSA JIVRAJ

PATANKAR, Major Sardar BHIMRAO NAGOJIRAO

POTDAR, Mr. B. B.

PRADHAN, Mr. R. G.

SHAH, Mr. SHANTILAL H.

SOLANKI, Dr. P. G.

SOMAN, Mr. R. G.

STONES, Mr. FREDERICK

TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD

VIRKAR, Mr. M. B.

The following Honourable Minister was also present :

The Honourable Mr. A. B. LATTHE.

**BILL No. VIII OF 1938 (AN ACT TO AMEND THE BOMBAY
FINANCE ACT, 1932).**

The Honourable Mr. A. B. LATTHE : Sir, I introduce Bill No. VIII of 1938 (an Act to amend the Bombay Finance Act, 1932)* as read for the third time and passed in the Legislative Assembly on the 3rd of March 1938.

The Honourable the PRESIDENT : The Bill is introduced.

The Honourable Mr. A. B. LATTHE : Sir, I move that Bill No. VIII of 1938 (an Act to amend the Bombay Finance Act, 1932) as read for the third time and passed in the Legislative Assembly on the 3rd March 1938 be read for the first time.

Question proposed.

The Honourable Mr. A. B. LATTHE : Sir, this Bill deals with three proposals for taxation. Most of the taxation proposed is existing in this Province for some years past. There have been certain amendments also proposed and they are intended to bring in a further revenue of about Rs. 8 lakhs a year.

Before I proceed to explain the proposals, I would like to say that, although originally Government intended that this Bill be placed on the statute book permanently, still, on further consideration we have decided that it should be only for one year, and every year the Bill should be introduced in the Legislature for consideration. The object is to place the Finance Bill before the Legislature every year, in order to give an opportunity to the Legislature to review the financial position of the Province and to consider what the Legislature might do in view of the circumstances existing in each year. That is the practice followed in all Legislatures to which the executive is responsible, and though we are not required by statute to follow this method, we think that the Legislature should have this opportunity of criticising and expressing its own opinion on the policies of the Government so far as the finances of the Province are concerned. It was with this object that an amendment was accepted by the Legislative Assembly, and the Bill as it stands is a Bill for one year. But I do not wish the House to understand that this is a measure of taxation which will be in force only for a year. That is not the object. We very clearly realise, and we wish that the House also realises, that this is more or less a permanent taxation. It is intended to be moved in the form of an annual Finance Bill for the purpose of enabling the House to examine the financial policy of the Government. That should not be understood to mean that the Government intends this taxation to be temporary. Of course, there may be changes in the future, and nobody can anticipate whether it may be possible to reduce the taxation included

* Appendix I.

[Mr. A. B. Latthe]

in the Finance Bill or to change or modify it. That is for the future to decide, but I do not today want to give an impression to the House that the Government by proposing the Bill only for one year means that the taxation ceases to be a matter of necessity at the end of the year. That is not the impression which I want the House to carry.

Sir, the changes we have proposed are these. With regard to the electricity duty, we have proposed that the duty of 6 pies per unit should be raised to 9 pies per unit after a certain minimum of consumption; that is to say, in the case of those who consume more than 12 units per month there will be this duty imposed. The House will remember that from almost the very beginning of our official life we have been thinking of regulating the electricity business in this Province in the interests of the public and in the interests of the consumers in particular. Some criticism has been made that we have deviated from the policy which we laid down in August last, and some countenance is given to this impression by the fact that we are raising the duty on the consumer. If, however, the House remembers all the facts which are relevant to this question, they will, I think, come to the conclusion that we are really pursuing the same policy as we laid down a few months ago, and we have not at all changed the policy though the method had to be changed on account of the force of circumstances. We claim that the Government have a right to derive some revenue from electricity, because the business of supplying electricity to the public is carried on under a licence which the Government, as representing the public, give to certain companies. It is not a business carried on on a competitive basis. It is a monopoly which the Government give, and certain other facilities also besides the monopoly are given by the Government to the companies to whom a licence is given. Naturally, therefore, Government must have the right in the first place to control the prices which the licensees might charge, because theirs is a monopoly which they derive from the Government. Then also, if there is a profit in the business, the public have a right to a share in the profit. Not only that, but the Government may also claim to share the profits of this industry, because it is on account of the facilities and the concessions which the Government give that this business really thrives.

Now one way, and perhaps the best way, in which we could have taxed the suppliers of electricity would have been to levy a sale tax on the electricity sold. As I have already stated in introducing the budget in the Lower House, there have, however, arisen a great many difficulties in the way of a sale tax. The Government are definitely of opinion that they can levy a sale duty on the sale of any article that they like; a reasonable sale duty would be perfectly justifiable under the constitution as we have it today. That is the view of the Bombay Government, and practically that is the view, I may say, of all the Provincial Governments in India. But the Government of India have taken a different view. They think that a duty on the producers of an article—they would go even a little further, but I need not mention that—a duty on the producers

[Mr. A. B. Latthe]

of an article for the sale of the article might be an excise duty, and therefore a sale tax on electricity may not be permissible to the Provincial Government. That has been one view. Of course we have had long discussions with the Government of India on this question and we do not anticipate any difficulty, provided we achieve the same object in a somewhat indirect manner, and in that indirect manner we have now chosen to do it. We propose in this particular case to enhance the duty on electricity consumed by the public, but at the same time we would levy that enhanced duty only on condition that there is a corresponding or a greater reduction in the charges recovered by the electricity companies from the consumers. So that, in effect, one might say that the duty will be paid by those who supply the electricity. That is exactly the reason why this Bill provides that we introduce this enhanced duty in the first instance in Bombay city, and later on, as we have the necessary material before us, by a notification in the *Gazette*, in other cities. As I have already stated in the Assembly, in Bombay city we are assured—

An Honourable MEMBER : Not in the suburbs ?

The Honourable Mr. A. B. LATTHE : I am talking about the area which is supplied with electricity by the Bombay Electric Supply and Tramways Company. I do not know whether they supply electricity in the suburbs ; I am not aware. But so far as the electricity supplied by the B. E. S. T. Company is concerned, we feel assured that they will give a reduction which will cover this enhanced duty and which may go even to a further length than covering this enhanced electricity duty. In the same way, I am very confident that in cities like Ahmedabad, Surat and some other places also we shall very shortly be able to announce a reduction in the rates. We are negotiating with the companies concerned, and we are quite confident that we shall succeed in persuading them to reduce their rates. In this way we hope that we shall be recovering this enhanced duty only from the companies which supply the electricity and not from the consumers, though directly of course the consumers will have to pay.

I have explained to the House the reason why we have to adopt this rather indirect method. But all the same, the object is there. In passing, I might mention here that, in pursuance of the policy which we laid down with regard to these public utility concerns, we have taken steps to revise the conditions on which electric licences will in future be given. I have no doubt that honourable members of this House have seen those new conditions, which have been already notified. They ensure that the profits of electricity companies will be controlled. No company will be in a position to exploit the monopoly to exclusively their own advantage. Very great care has been taken in the new conditions of licensing to secure this object. Then with regard to the existing companies, so far as the law permits it, we are going into the accounts and the circumstances of each company older than 7 years, and we hope to regulate the maximum rates charged by these companies after

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considering all the relevant facts with regard to the working of these companies. The object is to see that unduly high rates are not charged by any companies and the public get electricity at reasonably low rates. I hope these explanations will convince the House that the Government have taken every possible care under the circumstances to see that the enhanced duty is not levied in any inequitable manner.

Then, there is only one other change which has been proposed by this Bill and that change is with regard to the stamp duty levied on contracts made on the Stock Exchange in Bombay, as also elsewhere. There has been a 2-anna duty on the sale transactions of shares and scripts of certain character valued at Rs. 5,000. We now want to raise the duty to 2 annas for Rs. 2,500, and in order that there should be no evasion, as has taken place hitherto, we are going to levy that stamp duty on the clearance list, which each member of the Stock Exchange will be required to produce to the Stock Exchange at every settlement. That clearance list will enumerate all the transactions entered into by the particular broker, and he will also be required to put the proper stamp on the value of the transactions he has entered into. So that, the Stock Exchange will be responsible for recovering the proper stamp duty from everybody who carries on these transactions subject to these duties.

Mr. B. N. KARANJIA : On cash transactions also ?

The Honourable Mr. A. B. LATTHE : The special machinery will not extend to cash transactions. They can take place anywhere ; they need not take place only on the Stock Exchange. They will of course be subject to the increased duty, but it is the forward transactions that will be brought under the new machinery. All the other changes that have been proposed in this Bill are consequential changes. They are intended only to give effect to this one change in the Stamp Act. I might say that we expect to have an additional revenue of Rs. 3 lakhs from this stamp duty. It has been suggested to us in the other House, and I think probably in this House also, that we should similarly treat the other exchanges in the Bombay City..

Sir CURRIMBOY EBRAHIM : Other forward business ?

The Honourable Mr. A. B. LATTHE : As I have already stated, we have that under consideration and in due course we shall take steps and bring measures before the legislature for the purpose of deriving some more revenue by taxing forward transactions in other commodities.

I think I have sufficiently explained the changes which this Finance Bill proposes to introduce. The electricity duty is expected to give us Rs. 5 lakhs. The stamp duty is expected to give an additional revenue of Rs. 3 lakhs. In all we hope to get Rs. 8 lakhs. I hope the House will carry the first reading of the Bill unanimously.

Mr. S. C. JOSHI : Sir, I rise to give my qualified support to this motion for the first reading of this Finance Bill. So far as the continuation of the Court-fees and also the stamp duties are concerned, I am in entire agreement with the Honourable the Finance Minister that these duties ought to be continued and the latter even in an enhanced form. In fact, I would have even welcomed the Finance Minister to have increased further the duties on the transactions on the Stock Exchange. My opposition is for the proposal for increasing the duty on electricity. The Finance Minister has been good enough to explain to us the difficulties in his way. In the first instance he would have liked to have a sale-tax imposed on electricity but in view of the difficulties in the way of the Provincial Government placed by the attitude adopted by the Government of India, he had to resort to this new method. What I feel is that this method of indirectly imposing a tax on somebody, on whom it is not intended to impose that tax and who in the opinion of the Government is not liable to be taxed, is not the proper method. Whatever difficulties may be in the way of the Government, those difficulties must be got solved in the proper manner and not merely tried to be hoodwinked, or got over by an indirect method, and this is particularly so in the matter of taxation. While it may be true that the electric companies may be today quite willing and may agree even to reduce the rates of electricity to the consumer, that agreement will be an agreement entirely between the Government and the electric companies. Of course, I know that there cannot be any agreement between the electric supply companies and the consumer when the company will reduce the rates to the consumer. Therefore, it is entirely a one-sided business and the Government is in a better position, under its power of giving licences, to impose any condition, and can bring pressure on the companies and see that the rates are reasonable rates and they are not unduly high. At the same time, when we find that the companies are making profits, profits to such an extent that the rates ought to be reduced, it is a question of the consumers to get the benefit, and the consumers in big cities are not the only consumers who are wealthy people. In the City of Bombay electricity is being used by almost everybody in one form or another.

It appears to be the avowed intention of the present Government that it should be used more and more by the public and further that the supply of electricity should be made more cheap. Now, the public are entitled to get cheap electricity even now and the present profits made by the electric companies are such that the rates can be reduced. Now when the consumers are entitled to the reduced rates for the electricity that will be supplied to them, the Government is going to intervene and say that that concession should not go to the consumer, but should come to us.

The Honourable Mr. A. B. LATTHE : The whole of it should come to us.

Mr. S. C. JOSHI : We do not know exactly whether it will be the whole or part of it. If it is divided between the two, we do not know

[Mr. S. C. Joshi]

what is exactly going to happen. It is, after all, an understanding between the Government and the electric supply companies. Anyway, I object to this principle on which the present proposals are based that on no account, or simply to overcome some of the difficulties that might come in the way of the Government, they should resort to this indirect method of imposing a tax on somebody, who, in their own opinion, is not liable to be taxed and who ought not to be taxed. If Government have difficulties in their way, they must be got over in some other way. The attitude adopted in this particular case might also be followed in other cases in future. The Federal Court has been established and has the authority to give interpretation of the Act on such matters and if the Government are avoiding the necessity of approaching the Federal Court and getting a decision, I think it is not fair to the consumers. So far as this tax is concerned, I suggest to Government that, if it is possible, it should be dropped. I am only opposed to this tax. So far as the other parts of the Bill are concerned, I am in entire agreement and I support the other clauses.

With these words, I support the first reading of this Bill.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, I rise not to oppose the idea of taxing electricity. I have said in one of my former speeches that electric power purchased by those companies who do not produce electric power, who do not generate electric power but simply purchase it at lower price from large generating Cos. such as the Tata Power Co. Ltd. and sell at a large profit to the public, should be taxed because they enjoy the monopoly of Government Licence and sell at a large profit. I am in entire agreement with the Honourable the Finance Minister as far as the principle goes, because I know from the balance sheets and profit and loss accounts of numerous companies, which I have had opportunities to go through, in connection with the various bodies and associations to which I belong, that there is a large number of managing agents of these companies who do nothing but buy electric power in bulk at cheaper rate from generating companies and distribute same to the public at much higher rates and make very fat income. I have gone to their offices. There is hardly any staff except that of 3 or 4 clerks, but outside you find a board with the names of a large number of electric distributing companies which they run. They are able to make these huge profits on account of the monopoly that they get from the Government. Their work is simply to make bills and collect the money. I quite agree that in such cases we should go into their accounts carefully, and see that, as far as the investor is concerned, he is not unnecessarily harassed or deprived of a fair return on his capital, and Government can legitimately claim to take this by way of taxation as it belongs to the public. I agree with my honourable friend Mr. Joshi that the indirect method employed by the Government in this Bill is objectionable, but the Honourable the Finance Minister has told us the circumstances under which this indirect method had unfortunately to be devised on account of the objection from the Central Government. One cannot help remarking that the objection of the Central Government is technically rather strong or it is one which

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is arguable from both sides of the case. But anyhow as long as that objection stands and no decision has been arrived at from a Federal Court, we have to take that into calculation and apply indirect method with caution.

Now I go to the B.E.S.T. That body no doubt is running various services such as the tramway, bus and electricity. They are public utility concerns. I hope the Honourable the Finance Minister and his colleagues will not forget that in this concern a large amount of capital has been invested by the public of Bombay and they will see carefully, whenever they levy or decide to levy a taxation, that the poor man in the street, who is as poor perhaps as the electric consumer, who has invested his saving in the tramway company shares, the B.E.S.T. shares—and there are a large number of them—is not sponged upon wrongly. In this country our industries are not developed as much and as fast as we should like to, for two good reasons. One is that the capital and the investors are shy. The other is unfortunately the managing agency system, where a lot of sponging is allowed to be done directly and indirectly, by various methods and devices. It is not the fault of the investor, but of the managing agents who in many cases are greedy people, greedy to an extraordinary extent, and are depriving the industry of all its profits at the same time, depriving both the labour of its earnings and the private investor of his legitimate share in the profits. The remedy lies in the Provincial Government helping associations such as my shareholders' association to pass legislation by way of improvement in the managing organisation of companies. We, i.e. Association of shareholders, have done our best. I have given my little share in the Association and they are making great efforts for getting the law amended. I found, when in Simla, that great difficulties were experienced even by the executive of the Central Government in connection with managing agencies because a large number of British interests were involved and this is how a very unsatisfactory law has been passed in the new and amended Companies Act as far as the managing agents are concerned. All the old managing agents under the New Act are allowed to run on with their exorbitant takings, commission on sales, commission on purchases and profits on other subsidiary services etc. That leaves very little for the investor. That law is going to remain unchanged for some years. Only the new agencies and the new directors would be affected. If my honourable friends opposite can do something by putting a united case on behalf of the seven provinces which are under our Congress Government and bring pressure on the Central Government and the Secretary of State with a view to see that these managing agency extortions are stopped, they will have large amounts of surplus money for taxation from various public utility and other services companies. Otherwise they will be taxing a company whose capital comes out of the poor man's pocket and the result will be that in future no one will give money to or invest capital in public utility concerns. Government will have to take that burden on their shoulders. If the Government likes, it can pay them compensation and buy them out, i.e., return to them their capital with such compensation as calculations will permit, and buy the concern, run it by

[Prof. Sohrab R. Davar]

capital loans raised, run it yourself. That will be the just method of dealing with them rather than levying indiscriminate taxation. I have sunk my capital in a fairly good amount in utility concerns, and thus I say either do the one or the other. I am saying this because I am feeling rather nervous at the way things have been done of late. The labour minimum wage has been fixed at rather a high rate. I have been very seriously considering it for days together with many expert colleagues and I find that that burden on the textile industry will be very difficult to meet and the grounds on which that has been done are rather defective. I have written a letter on behalf of my shareholders' association which will soon be presented to the Government. I have no doubt that the Government do not wish in any way to obstruct the progress of industry in this country and I appeal to them that for heaven's sake, do not interfere in a way which is likely to make capital shy. Where there is sufficient blood, put your lancet and take it, but where there is not much blood, please do not try to take it out. With regard to the B.E.S.T., I know there are many defective points in their organisation on which we have fought. Their expenses are extravagant, they are paying fabulous salaries to some officers which we have protested against from our shareholders' association. I hope that they will curtail their expenditure in order to meet this tax and not put the burden of this extra electricity duty on the poor shareholder who has invested his money and gets very little return. Here we have not only to look at the capital originally invested, but we have also to consider the capital value at which a genuine investor, as distinct from a mere speculator, has purchased his share capital on the supposition that things will continue as they are and normal circumstances will prevail. He never took into his calculations the fact that the Congress or any other Government will come in and will levy heavy taxation in one form or other. That argument, I hope, the Honourable Mr. Latthe, who has been very kind and sympathetic to me and I appreciate that highly, will take into consideration; otherwise, as far as this duty goes, I have nothing to say against same on any other ground.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I do not wish to oppose the duties levied on electricity by the Finance Minister and if, by that way, the Government want to increase their revenues, I have nothing to say. I understand that certain agreements have been concluded with certain companies throughout the whole province—

The Honourable Mr. A. B. LATTHE: May I just say that no agreements have been concluded? We have just requested the companies to tell us whether they would be able to reduce their rates in order that the burden of this tax should not fall on the consumer, and in some cases, including the B.E.S.T., we feel confident that the burden will not fall on the consumer, that is to say, they will reduce their rates. It is just a sort of assurance and I might just add that, if our assurances fail, the enhanced duty will not be levied.

Mr. B. N. KARANJIA : Sir, I do not know how that can be carried out, because in the agreements the maximum to be charged to the consumer is prescribed. I may quote one instance. Messrs. Killick Nixon & Co. have got an agreement with the Government that the maximum to be charged to the consumer should be so much. They wanted to increase the existing rate to a figure within the maximum. The people objected and were prepared to strike and not to use electricity, but to use kerosene lamps. Ultimately there was a compromise between the company and the consumers and they came to a settlement by which the company had to give a certain concession. Therefore I may point out to the Finance Minister, if the maximum rate is given in the agreement and if they charge to the consumer within that, how could the Finance Minister prevent it ? Such a position is going to come and therefore ultimately the increase will be on the consumer and not on the companies. That is my point. If all legal difficulties have been solved and if the Finance Minister is convinced that there shall be no burden on the consumer and the profits will be reduced by paying the duties to Government, I have not the least objection, but I think that difficulty will come, and is sure to come and the consumers have to pay according to the agreement. That is my view.

Again for the new companies, the Government have said that only 4 per cent. should be taken up by the company and the rest will be divided between the parties. May I know from the Finance Minister whether any district is left in the Bombay Presidency where a licence can be granted to a new company ? I understand that all the agreements have been concluded, say for the whole of Gujarat with Messrs. Killick Nixon & Co., for Surat with Messrs. Killick Nixon & Co., for Ahmedabad with a certain company, and so on. They have been given on the same conditions on which Government allow licences, in the same way they have sub-divided these licences. May I know, whether any good district is still left for which any new firm can get a licence ? I think there is none and, therefore, how can these difficulties of getting allowance from the company be solved ? That is a problem.

Coming to the taxes on stamp duties, I think the estimate which the Finance Minister has made may fail, because there are many forward transactions and if they are all honestly brought to the Government's notice, there will be three times the duty the Finance Minister expects. But the case will not be solved. One transfer is made even for five transactions and the duty will be paid on one transfer only and not the five transactions that have taken place. Therefore, has he found out any method by which each and every transfer has to pay the duty, which my friend the Minister expects, or can he get the duty only on one transfer ? That is what I wanted to know.

After that, Sir, I have nothing to add further.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar) : Sir, I give my qualified support to this Bill, but I cannot just accept the proposal of taxing the electricity as has been done here. My reasons are these. We just heard from the Honourable the Finance Minister that the fixed policy of Government arrived at after due consideration is that they

[Mr. N. D. Deodhekar]

do not want to allow the electricity and such other companies to exploit their monopolies, but Government policy is that they should like to become partners with these companies and share the profits from the exploitation of the monopolies. What we have got before us is that the taxation on the consumer of electricity is increased and the promised settlements, etc., with the Electric Companies are yet in embryonic stage and are not settled things. Who knows what would be the final achievement? The tendency of the Government in power is that once they get some money somehow—and there are always difficulties about getting money,—then they do not like to part with the advantage that they have got. Measures after measures are put forth in the Finance Bills which are described as temporary or for a period of 3 or 4 years and generally the period goes on increasing till practically the Bills or the taxes become permanent. Even just now we find that the Bill as was first supplied to us said that these taxes would be permanent, but again in the Lower House the period is extended only for one year and still we are told by the Honourable the Finance Minister that though the period is only one year in the Bill, the taxes would be permanent, simply an opportunity will be given to us for considering year after year and having our say on the matter——

The Honourable Mr. A. B. LATTHE: And voting.

Mr. N. D. DEODHEKAR: Thank you, Sir; you can be liberal, because you know how the voting goes on at present. You can give us the concession which is of little avail to us. For this reason, I would like that the tax on electric consumption should be retained as it is by dropping the new clause, and if and when the Government arrives at a settlement with the company, we shall see what to do.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira): Sir, I support the Bill. I cannot agree with my honourable friend Mr. Joshi when he says that the tax would fall on the consumer. The Honourable the Finance Minister has made it perfectly clear that he has come to a sort of understanding with some of the biggest concerns that they would not take these 3 pies into consideration while fixing the rates with their consumers. In that case I do not think that these 3 pies at least could come from the pockets of the consumer. I take the case of the Bombay Electric Supply and Tramways Company. It is giving perhaps the biggest dividend of all the electrical concerns and it has come forward and assured the Honourable Minister that it would not increase its rates. Now, if in spite of the promise it does increase rates, then I think, the average consumer has got a perfect right to protest against any increase in these rates. If it comes to that, I think Government might take some action as they like. They may call upon the B.E.S.T. and ask why the company has backed out of its own promise and set the matters right. Personally, I think that companies which are making big profits should part with some of their profits and contribute to Government their quota. In this connection I would rather support the Honourable the Finance Minister that he will just request that company to employ Indian officers.

[Mr. Dadubhai P. Desai]

and employees as I know that the B.E.S.T. is very fond of employing foreigners in their concerns, and that is why it has made the overhead charges very costly. The overhead charges are more than in any ordinary electric company and I would request the Finance Minister just to note down these points and request the B.E.S.T. to employ at least a fair percentage of officers from the Indian ranks in order to bring down the cost of running their electrical concern, so that it would be able to supply electricity more cheaply and can give handsome revenue to the Government also.

Then, Sir, a point was raised as regards clearance lists in the Stock Exchange. I wish the Honourable Minister just to look into that matter and if he is able to devise some means by which every transaction is taxed, then I think the income he has put down would be greatly increased. I think it would increase 3 or 4 fold at least. So far as I am aware every transaction has got to be entered in a book of some kind, and, if the Honourable the Finance Minister sees that every page on which a transaction is entered is stamped with a stamp of two annas then our income from this source would very much increase. Whether it be an oral transaction or a written transaction it has got to be entered, and it is entered in a note book.

The Honourable Mr. A. B. LATTHE : Oral transactions to be entered into books ?

Mr. N. D. DEODHEKAR : They are entered in small pocket note books and checked afterwards regularly.

The Honourable Mr. A. B. LATTHE : Then they cease to be oral.

Mr. DADUBHAI P. DESAI : Government should make it compulsory that every page on which a transaction is entered should possess a stamp of 2 annas. If that is done, I am sure the Finance Minister will find that the meagre amount that he expected from this source is trebled or at least doubled. While I am speaking on this point of Stock Exchange I should like to speak about the other Exchange which is not recognised by Government, i.e., which has no statutory recognition. In that case also I think the Honourable the Finance Minister should make it a point that all transactions carried on are taxed. So far as this tax is concerned, Government should recognise that Stock Exchange.

As electricity is going to be more and more used for agricultural purposes, i.e., for irrigation and for increasing the crop production, the U. P. Government are taking lot of interest in it and if our Government can devise some plan by which capital is attracted to this Industry so far as the rural areas are concerned, I think they would be helping the rural population to a very great extent. In U. P., in Madras, they have been freely encouraging the spread and use of electricity and many Indian States have taken up this matter and I should think that our Government might propose a plan by which very big companies for bulk supply—or Government themselves might finance such schemes, I mean those concerns which are called grid concerns, which supply in bulk like Tatas,—are allowed to be

[Mr. Dadubhai P. Desai]

floated, then electricity will be quite cheap to the agriculturist and to smaller industries also. I would not mind if for that purpose even the capital is imported into this country, provided we would increase our crop production, provided smaller industries could be supported. I have found that in India the capital is very very dear while it is cheap outside India. If cheaper capital were imported to finance big schemes and these concerns supply the energy in bulk to all Indian-owned and Indian-managed concerns for agricultural purposes, for the increase in crop production, and for irrigating the crops, then I think this country can get electricity as cheap or rather much cheaper than they get either on the continent or in the United States.

Then some point was made about the managing agency system. I think, however, there is one difficulty here, because as I told you the other day the banks are very very conservative. There are no industrial banks in this country just as you find in other countries, and there must be some one who would stand responsible for the capital.

Professor SOHRAB R. DAVAR : That theory has been entirely exploded now.

Mr. DADUBHAI P. DESAI : I was just explaining why the managing agency system was found necessary in this country and I said that it was because of want of capital.

Professor SOHRAB R. DAVAR : That was so in the early stages. But now under the Act no company could be floated without adequate capital.

Mr. DADUBHAI P. DESAI : Sir, I have no more suggestions to offer and I resume my seat.

Mr. FREDERICK STONES (Presidency) : Sir, I will only detain you a few moments. I agree with my honourable friend Mr. Joshi who has stated his objection to the section of the Bill dealing with the increase in the electricity duty. Otherwise, I give my qualified approval to the Bill. I also wish to compliment Government on appointing a strong committee to go into the working of the electricity concerns of this Presidency. I just want to make one suggestion to that Committee, that they might consider the linking up of irrigation with the production of electricity and utilise the offer that both irrigation and hydro-electric power will be available to secure the co-operation, by negotiation, of Indian States who may be holding up schemes through the fact that catchment areas are wholly or in part in their territories.

Mr. R. G. PRADHAN (Thana *cum* Nasik *cum* Ahmednagar) : Sir, I rise to offer a few remarks on this Bill. I trust the honourable House and particularly my honourable friends opposite will appreciate the fact that the Government have complied with the desire expressed in the Assembly by the opposition parties that this Bill should be limited to a period of one year. Government have agreed to this request and consequently the duration of the Bill has been fixed for one year.

Mr. S. C. JOSHI : Not on the same ground as that of the Opposition.

Mr. R. G. PRADHAN : This is a very wise decision arrived at by the Government. It is perfectly sound and constitutional. As the Honourable the Finance Minister has just pointed out, that taxation Bill should be brought before the Assembly every year, so that the House should have an opportunity of considering and reviewing the financial position as then existing in the light of the taxation Bill. So far as this Bill deals with electrical concerns, I incidentally in my speech on the budget gave expression to my strong conviction that all public utility concerns including these concerns should be nationalised, that all the profits derived from such public utility concerns of the Province should go to the Government and that not a single pie should go into the pockets of the middleman. However, that is an ideal, and it may take some years before that ideal can be realised. In the meanwhile, however, the Government are doing the right thing in proposing the electrical taxation Bill, so that while on the one hand the consumer will get electricity as far as possible at low rates, some portion—I trust an increasing portion—of the profits to be derived by the companies will go to the exchequer. On that principle the Bill is based, and pending the ultimate nationalisation of this public utility concern, that is a sound principle and I see absolutely no objection to this Bill at all.

3 p.m.

There is another aspect with regard to all taxation Bills, a constitutional aspect, which I wish to submit to this House, though I do so, not without diffidence. That constitutional aspect is this. No doubt, under the Government of India Act, this House is entitled to deal with a taxation Bill in any way it likes, just as it is entitled to deal with any other Bill. I perfectly recognise that. Technically, the Council is perfectly entitled to alter, to modify, even to reject a taxation Bill. That is perfectly true. But on the other hand, taxation Bills form part of the budget proposals of the Government, and the Assembly has a special function, a peculiar privilege in dealing with the budget including that part of the budget which constitutes taxation Bills. That being so, my submission is that this House should avoid as far as possible interfering with the decision arrived at by the Assembly on taxation Bills, unless the Council feels convinced that the decision of the Assembly is gravely mistaken. Except in such exceptional circumstances, this House, I submit, should not interfere with the decisions reached by the Assembly in the matter of taxation Bills. This particular taxation Bill has been passed by the Assembly after a good deal of consideration. It has come to us as passed by the Assembly, and therefore I submit that this Council would be well advised in not at any rate making any drastic or serious changes in that Bill. It should be accepted as it is. That is what I want to submit.

Dr. P. G. SOLANKI : Sir, I support this Bill for taxation, and particularly the tax on electricity. It has been said by many that it will fall heavily upon the consumers, and that too on the poor consumers. We being among those poor consumers do have that apprehension, but at the same time I do feel that the Minister in charge will be rather

[Dr. P. G. Solanki]

cautious in this matter and try to give as much relief as he can at present. I do insist, Sir, that in Bombay there are two or three classes of people who are using electricity. One is the class of people to whom electricity has become a necessity for their daily use in their houses and for cooking purposes. In the case of such a class, I do appeal to the House and to the Minister that it should not fall heavily upon them. The second class of people belong to the upper middle classes, who can afford to have electric fans working in their houses for hours together, and who can have more than half a dozen lights for use in their houses. Such men can afford to give something more than the men belonging to the first class I have just mentioned. Above them also there is a class which is rolling in riches and which is found always in the clubs, in the cinemas, in the dancing houses and the dancing floors in the hotels. Such men who possess bungalows and flats should be taxed heavily and I would not have any sympathy for them. The people who are patronising the rich hotels, the hotels themselves, the up-to-date cinemas and those who want put up a big show to attract people from the poorer classes, such houses of show and luxury ought to be taxed still more.

Sir, I know very well that this electricity tax will be utilised for the nation-building departments, for which it was set apart from the very beginning, though I have doubts that these taxes have not been fully utilised for the nation-building departments. The nation-building departments are starved, and before I sit down my appeal to the Honourable the Finance Minister is that the money which they get from this taxation and the stamp duty must go, if not the whole the major part of it, for the nation-building departments. With these words, I wholeheartedly support the Bill.

The Honourable Mr. A. B. LATTHE : Sir, I must thank all sides of the House for the reception which they have given to this Bill. I know that certain criticisms have been made, and opposition to certain features of the Bill has also been offered. - But that is very natural. On the whole, I feel satisfied with the reception which has been given. With regard to some of the points raised, I might say a few words in reply.

Taking the last remark of my honourable friend Dr. Solanki, I think if he has read my budget speech there should be no doubt in his mind that all this 8 lakhs and 3 lakhs more from the Turf Club has been appropriated entirely for nation-building departments.

Dr. P. G. SOLANKI : This was by way of an humble reminder.

The Honourable Mr. A. B. LATTHE : I am committed to it ; whether I remember it or not, I am bound to spend this money for the items which I have indicated in my budget speech. So, there is no doubt about that.

I thank my honourable friend Mr. Stones for the suggestion which he made with regard to the combination of electricity and irrigation. I may assure him that I have myself had that idea in my mind since a long time. I might tell the House that this is a matter which has been very sadly

[Mr. A. B. Latthe]

neglected by us. At Bhatghar for instance, where we have a huge dam constructed at the cost of crores of rupees, we have electricity plant already existing for a long time, ever since the dam was completed, and electricity is being produced there. But at present no better use of the electricity can be made or is thought possible to be made than to lift a little water for the garden surrounding the Government rest house there and for supplying electricity to the rest house whenever an officer happens to go there. A part of the electricity generated has been of late given to the little town of Bhor which is nearby. I was told this morning that very great difficulties were raised for the giving of electricity to that little town, because it was said that it was a very small town and it would bring in very small revenue. I think preference was given to losing even that small revenue rather than to getting it, and in that way the opportunity was being neglected. Then I had occasion to visit Ahmednagar district a couple of months ago, and there under the Wilson Dam, another irrigation work which has cost us crores of rupees, there is a waterfall from a height of about 200 feet, and the whole of the water impounded in that dam is thrown over that fall all the year round. The idea of utilising that fall for generation of electricity—I think it would not be a very costly business—has not been exploited up till now. My honourable friend on my left has already put his engineers on that work, and we hope to place before the Legislature and the public a scheme for utilising the existing irrigation works for producing electricity at a very cheap cost. Of course there may be other projects also, but I just mentioned one or two that we have in mind which could be made use of on the lines suggested by Mr. Stones.

One fundamental objection was raised to the electricity duty, viz., that we are taxing the people in an indirect manner. I think my honourable friend Mr. Joshi rather used inaccurate language when he said that we were indirectly taxing a class of people who, we thought, ought not to be taxed. These were the words which he used. I do not know whether my honourable friend really meant what the words seem to mean. We never thought that the electricity supply companies whom we wish to tax ought not to be taxed. We do not hold that view. We do think that they should be taxed. But under the law as it stands today we have to follow an indirect way of taxing them. I agree that an indirect way of taxation is not really a good way. That is quite obvious. Indirect taxation is always an objectionable form of taxation. But sometimes, when a direct tax is impossible, it is much better to have an indirect tax than to leave the party concerned untaxed. That is why we have to adopt this somewhat indirect method of taxation.

My honourable friend Prof. Davar expressed some anxiety about the interests of the shareholders of these electricity supply companies, particularly of the B.E.S.T. Company. I might assure him that in so far as this taxation is concerned, whatever the reductions in the rates we may hope to persuade the B.E.S.T. to accept, will not affect the dividends of the company in any way and there need be no anxiety at all that the shareholders of the B.E.S.T. are likely to suffer in any manner.

[Mr. A. B. Latthe]

Of course, so far as the fall and the fluctuations in the prices of these shares are concerned, I must very frankly say that those fluctuations depend on so many factors; especially in a city of a large number of gamblers, in Bombay, of course, these fluctuations do come often. Whatever I may say here might be utilised for creating—

Mr. DADUBHAI P. DESAI: Some earn thousands.

The Honourable Mr. A. B. LATTHE: I am helpless in the matter. If I do not say anything, still that might be taken advantage of to create a flutter in the market. If I say anything, that would also be taken advantage of. I say that there is nothing affecting to any appreciable degree, probably to any extent at all, in the present proposal for taxation. Of course, the question of managing agency does not arise on this occasion. The Joint Stock companies are a federal subject as my honourable friend knows, and it would be very difficult, though I would be very willing to help Professor Davar to secure his object, it would be very difficult for us, as a Provincial Government, to do anything substantial.

I think my friend Mr. Karanjia was labouring under some misapprehension. I did not quite follow him and I see that he is not here. It is not very necessary that I should pursue an objection which I have not myself very clearly understood.

Mr. Pradhan raised what he called a constitutional issue. I must make it clear to the House that I do not hold that view. The constitution is there and the House has a perfect right to deal with the Finance Bill just as it pleases. I do not wish to preach a constitutional sermon to this House. I put this Bill before the House on its merits and I feel confident that the House will accept the Bill as it is.

Question, "That Bill No. VIII of 1938 (An Act to amend the Bombay Finance Act, 1932) be read a first time," put, and agreed to.

The Honourable Mr. A. B. LATTHE: Sir, I move that Bill No. VIII of 1938 (An Act to amend the Bombay Finance Act, 1932) be read a second time.

Question put, and agreed to.

Bill read clause by clause.

Clause 1 (*Short title and commencement*) ordered to stand part of the Bill.

Clause 2 (*Amendment of section 2 of Bom. Act II of 1932*) ordered to stand part of the Bill.

Clause 3 (*Amendment of the Schedule to Part II of Bom. Act II of 1932*):

In the First Schedule to Part II of the said Act—
for the words—

"Six pies for each unit of energy consumed", the following shall be substituted, namely:—

"(1) In the city of Bombay, and in such areas as the Provincial Government may by notification in the Official Gazette, specify in this behalf—nine pies for each unit of energy consumed, and

(2) In other areas—six pies for each unit of energy consumed."

Mr. S. C. JOSHI : Sir, I rise to oppose this clause. It is not necessary for me to propose an amendment for its deletion. I do not want to take time of the House. I have already said what I had to say on the question at the time of the first reading of the Bill, but I do oppose this clause.

Question, "That clause 3 do stand part of the Bill," put, and agreed to.

Clause 4 (*Amendment of section 15 of Bom. Act II of 1932*) ordered to stand part of the Bill.

Clause 5 (*Amendment of Schedule to Part IV of Bom. Act II of 1932*) ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

The Honourable Mr. A. B. LATTHE : Sir, I move that Bill No. VIII of 1938 (An Act to amend the Bombay Finance Act, 1932) as passed by the Legislative Assembly on the 3rd March 1938, be read a third time and passed.

Question put, and agreed to.

The Honourable the PRESIDENT : The Bill is read a third time and passed.

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT : The second Government Bill is No. IX of 1938, the Bombay Tobacco Act of 1938. I find that it was circulated to the honourable members of this House only yesterday and I have received certain amendments from the honourable member Mr. Joshi. I do not know whether the honourable members of this House feel any shortage of time for consideration of this Bill. If so, I think, if the honourable members desire, the consideration of this Bill can stand over for some time. I understand that this Bill is in charge of the Revenue Minister and possibly he will be engaged in the budget discussion in the Assembly next week, but if the honourable members suggest some day—tomorrow or Saturday or Monday—the Bill can stand over. (*Honourable members : Tomorrow*). I think tomorrow seems to be the general wish of many of the members though the reason why Saturday is left out is that there are many members who would like to go out. It seems to be the general wish that this Bill be considered tomorrow. We will, therefore, adjourn now and meet tomorrow at 2 p.m.

Mr. S. C. JOSHI : Sir, may I request you or the Honourable the Finance Minister to say what will be the business of the House next week or on Saturday ? At least we would like to know exactly what days will be allotted and on what days the non-official business will be taken.

The Honourable the PRESIDENT : I think the Government will disclose their intention tomorrow.

The House then adjourned till 2 p.m. on Friday, the 11th March 1938.

Friday, the 11th March 1938.

The Council re-assembled at the Council Hall, Bombay, on Friday, the 11th March 1938, at 2 p.m., the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HALDIPUR, Mr. S. R.
 HAMIED, Dr. K. A.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MARWADI, Mr. P. S.
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 PATANKAR, Major Sardar BHIMRAO NAGOJIRAO
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
 VIRKAR, Mr. M. B.

The following Honourable Minister was also present :

The Honourable Mr. Morarji R. Desai

**BILL No. IX OF 1938 [AN ACT TO AMEND THE TOBACCO DUTY
(TOWN OF BOMBAY) ACT, 1857, AND THE BOMBAY
(DISTRICT) TOBACCO ACT, 1933].**

The Honourable Mr. MORARJI R. DESAI: Sir, I beg to introduce Bill No. IX of 1938 [An Act to amend the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933].*

The Honourable the PRESIDENT: Bill No. IX of 1938 is introduced.

The Honourable Mr. MORARJI R. DESAI: Sir, I beg to move that Bill No. IX of 1938 [An Act to amend the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933], be read a first time.

Question proposed.

The Honourable Mr. MORARJI R. DESAI: Sir, this Bill has been passed by the Legislative Assembly and has come now before this House for the purpose of its sanction. As it is, it is not quite a new form of taxation because it is in existence since 1932 or 1935 and, as the Act ends at the end of this month, it is necessary to have this amendment in order that it may continue in future. So far, the practice has been to renew this Act from year to year or for two years. In this amending Bill it is proposed to make this Act permanent. This may appear to be some innovation in that it is now sought to make this Act permanent and I should give reasons for the same. As far as one can see, there is no chance of this Government wanting less money, because more and more money will be required in the interest of the public on schemes of public welfare and I am sure that tobacco is one of the items which supplies a very suitable form of taxation. It is an item which is taxed in many countries and brings in quite a good revenue in all those places. It is therefore that Government have decided to make this Act permanent and, if, at any future date, it is found possible to substitute this by some better form of taxation to bring in more money, then it will be very easy to remove this Act by a repealing Bill. But as I cannot see any measurable distance within which this will be possible, it is not necessary to raise a controversy every year on this taxation when it is seen that it is required for a very long time to come. It is for this reason that Government have decided to make this Act permanent.

There are not many new features in this Act and it is not proposed by this amendment to increase very much the existing income of Government from this taxation. The changes that have been made have been made with three objects in view. The first object is to give some facilities to the people from whom the tax is taken; to make better arrangements for carrying out the taxation in a proper form and the third object is to put it in such a form that it can be developed with

*Appendix 2.

[Mr. Morarji R. Desai]

advantage in future. Two Acts are covered by this amending Bill. One is the Bombay Town Tobacco Duty Act and the other is the Bombay District Tobacco Act. In the Bombay Town Tobacco Duty Act the only change proposed is the change in the licence fee. At present the licence fee is Re. 1, and the proposed change is Rs. 50 for superior tobacco and Rs. 25 for inferior tobacco. It may be argued that the licence fee is increased tremendously all at once. There are obvious reasons for making this change. So far, the number of licences in Bombay has been limited and licences are not freely given. If some licensees die, then and then only those licences are given to new people and, though there is a demand for a very large number of licences from other people, the policy has been not to give more licences to other people with the result that there has been practically a monopoly of trade in the hands of a few people. This has led to many complaints and it has also led to illegal sales of licences. There have been many instances in which people who hold the licences do not work themselves, but sell them illegally to other persons for sums extending to Rs. 200 and more and that is why we have decided to raise the licence fee to Rs. 50 and Rs. 25. When we see that these licences are capable of sale to other parties for sums extending to Rs. 200 and more, a licence fee of Rs. 50 and Rs. 25 will not be considered heavy at all. We would have kept the licence fee very low if it would not lead to any abuse. But when we want to make licences free, that is, when we want to give them to as many people as require them, we would put a certain condition as regards the minimum distance between two shops, and if that condition is satisfied, we do not propose to restrict the number of licences. With a view that any man, whether it is possible for him to have a shop or not, does not apply for a licence and does not act adversely on the licensee, merely in order to extort money from those licensees, it is necessary to have a licence fee which will prevent automatically people from uselessly applying in order to blackmail the licensee who may be there. Therefore, the licence fee has been raised from Re. 1 to Rs. 50 and 25 maximum.

Then there may be some misapprehension about the classification of superior tobacco and inferior tobacco. It may be said that these terms ought to be defined in the Act itself and defined quite definitely. I would certainly like to do so, if it were possible to do so immediately and without any detriment to the licensees. But after thinking over it for a long time we came to the conclusion that this question is a bit difficult and if we define it rigorously just now, it may perhaps act adversely on the licensees themselves, because when once the definition has been put on the Statute Book it will not be possible to remove or change the definition very quickly. But if it is provided in the rules and if we find that there is some difficulty in the way of the licensee, then it will be possible for Government to give him relief in a short time. However, I may say that superior tobacco is meant to be the tobacco which is mainly utilised for cigarette and cigar manufacture and all the rest of the tobacco will come under the category of inferior tobacco. It may be said that "pipe tobacco" will also be superior tobacco, but it

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will not be included there. It is exactly for this reason that we do not define these terms because if we put that superior tobacco would mean tobacco utilised for pipe, cigarette and cigar, then such tobacco would include a lot of inferior tobacco. There are many people who use *chalams* as they are called and who use ordinary inferior tobacco for that purpose; so that if we include "pipe tobacco" in the category of superior tobacco, then it will cover all tobacco—all inferior tobacco—and those sellers of inferior tobacco will have to pay a high licence fee. That is why we want to make this provision in the rules. But the superior tobacco will be covered by the definition of "cigarette and cigar tobacco". It is generally known that pipe tobacco is only sold by merchants who sell cigarette and cigar tobacco; it is not generally sold by people who sell inferior tobacco.

Mr. B. N. KARANJIA : Are you going to make any distinction between foreign and indigenous tobacco ?

The Honourable Mr. MORARJI R. DESAI : We are not going to make any distinction between the two, because it is not possible to make any distinction under the Act itself. So, this is all the change made in the Tobacco Duty (Town of Bombay) Act.

As regards the Bombay (District) Tobacco Act, 1933, the change that we have proposed is that for the retailers we have now fixed a flat rate of Rs. 2. So far for the retailers they had to keep accounts and show their accounts because a fee was fixed on the business they were transacting and there were many complaints from the retailers that they, being small traders, do not keep accounts and that it was very difficult for them to satisfy the officials about the returns and they were put to a lot of difficulty on account of that. This complaint appeared to be true and in order to remove this complaint, we have now decided to fix a flat rate of Rs. 2 on retailers and brokers. This will certainly mean a certain amount of loss in revenue, but that will be covered by the rise in the licence fee which is proposed in the Bombay Town Tobacco Duty Act; also in certain towns we propose to levy a sale tax as provided in clauses 4 and 5. We have also come to the conclusion that it is necessary to develop this tax because we must find out means whereby we must make up for the deficit that will be caused by the prohibition policy of Government and for that purpose we see a possibility in this tax that it might give us substantial revenue. But as it is a new form of taxation, it is necessary to proceed very cautiously and proceed in such a way that the tax will be collected and administered in a proper manner. For that reason it is sought to notify certain areas where it is possible to make such arrangements that the duty can be levied in an efficient and proper manner and where arrangements can be made to prevent smuggling. We want to levy a tax which will not exceed, on an *ad valorem* basis, 50 per cent. of the price of the sale of tobacco. This duty is very much less than the duty levied in the Bombay City. In the Bombay City, the duty levied is Rs. 30 per maund, whereas in the urban areas where it is sought to be levied it will be only 50 per

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cent. of the price of tobacco for which it is sold. That will not mean more than Rs. 10 at the most for the best tobacco as far as I can see. That is what I am told. So it is not likely to act in any way very harshly on the sale of bidies and things like that because it has been our experience that when the tax was only Rs. 7-8-0 on tobacco in Bombay City, the bidies were sold at the rate of 8, 9 or 10 per pice and when it was raised to Rs. 30 per maund they are still sold at 7 or 8 per pice. That means there is not such a large difference as would be imagined from the rise in the duty. That is because formerly when there was no duty or little duty, the merchants who dealt in tobacco took a large profit. It has not acted adversely on the growers in any way, because even when the duty is raised we find that the prices that the growers get have not been adversely affected. That is so, because the prices also do not depend upon this duty, but they depend more on the amount of export trade that is going on in tobacco in this country. The amount of tobacco exported from this country automatically adjusts the prices, because if the merchants here do not give them the proper price which they can get outside the country, then, naturally, they will not get any tobacco because it will all be exported. So the merchants here, whatever may be the duty, have got to pay the price which can be obtained outside the country and if in export trade the growers cannot get a better price, then the merchants here will not give them a better price, but they will take the whole profit. It is the purpose of this legislation to take a part of that profit and that is why Government feel that this is not working adversely on the grower at all and it is a very equitable form of taxation. I therefore hope that this honourable House will pass this tax with one voice.

Mr. S. C. JOSHI : Sir, I rise to oppose the first reading of this Bill which has been moved by the Honourable Minister. This Bill seeks to do four things. Firstly it increases the licence duty in the City of Bombay from Re. 1 to Rs. 50 in the case of the superior tobacco and from Re. 1 to Rs. 25 in the case of the inferior tobacco. The second thing that is intended to be done is to overhaul the method of fixing the fees on tobacco, first by shifting the licence fees from the retailer to the wholesale dealer as is said to be the case in the Statement of Objects and Reasons annexed to this Bill, when it was circulated in the Assembly, and secondly to fix a fixed licence fee on the retailer instead of the prescribed *ad valorem* fee. It also seeks to increase the licence fee on the wholesale dealer. The third feature of the Bill is to impose a new tax, called the sale tax, at the rate of 50 per cent. *ad valorem* value in certain selected areas, and lastly this Bill seems to make this tax a permanent one instead of a temporary one as it used to be, up to this time. On all these points I am opposed. It is not on any particular point that I am opposed but on all these points I feel that the action of the Government is not fair, is not according to the promises and assurances given or the policy of the Government declared on the floor of the Legislature.

[Mr. S. C. Joshi]

The duty on tobacco cannot be said to be a tax on an article of luxury. I was expecting the Honourable Minister to say whether, in his opinion, this is an article of luxury or an ordinary article. But he has preferred to remain silent on the point. I have however got the authority of the Honourable the Finance Minister who has said in the past that the duty on tobacco is a duty that is paid by the poor class of people. I will merely refer to the speech of the Honourable the Finance Minister in presenting the budget on the 17th August 1937. This is what he said :

“The tax on country-grown tobacco is mostly paid by the poor classes.”

Now, it has been the declared policy of Government when it is a question of taxation which falls more heavily on the poor, to change it in such a way as to reduce the taxation on the poor and to increase it on the wealthier class of people and I had expected Government to come forward with the first measure of taxation, which is intended to recoup the loss caused by their prohibition policy, by imposing a burden on the richer class of people and not on the poorer class of people. I am sadly disappointed at this, inasmuch as the first Bill that is brought forward by the Government imposes a tax again on the poorer class of people. I think if this is to be the policy of Government in making good the loss, it is not a proper policy. Government themselves do not want it. I do not understand why then the Government had come forward with a measure of this type. In every case, the tax is intended to be increased by this measure, whether that be in the City of Bombay or whether it be in the district. I shall first consider the case of the City of Bombay. In the City of Bombay, the present licence fee is one rupee only per licence. It will be increased to Rs 50 or 25 according to the kind of tobacco. The ground urged by the Honourable Minister is that the number of licences at present is very much limited and that illegal profit is made by the licensees and therefore it is intended to increase the number of licences. Now by increasing the number of licences and by increasing also the licence fee in this way, Government will be benefited in two ways. I do not really understand the reason which led Government to impose this tax or to increase this tax and at the same time to increase the number of licences. That is really difficult to understand. They cannot so very easily be reconciled. How will this illegal traffic be stopped by increasing the licence fee and by increasing the licenses themselves? I would like the Honourable Minister to explain this point. In any case, the fee imposed is too high and unreasonable and particularly in the case of the inferior tobacco, it will fall very heavily on the poor class of people. Then in the mofussil also the same thing applies. In the mofussil, the fee is increased in the case of the licences for the retailers. Of course, the method of imposing the tax has been changed and the fixed licence fee is sought to be imposed by it. I do not know actually what will be the total result of this change in the method of taxation, whether it will be in favour of the licensees or in favour of the

[Mr. S. C. Joshi]

Government. But the other duty that is sought to be imposed in the districts, namely the sales tax is an important item in this matter. The duty, the sales tax, that will be imposed will be up to 50 per cent. Now, the reason advanced is that in the City of Bombay there is already a duty of Rs. 30 per maund and there is no duty in the mofussil and therefore it is sought to be imposed as a sales tax. This tax, as it will fall on the poor, should have been rather dropped. I am not against the imposition of the sales tax on articles which are used by the richer classes of people, who are best able to bear the burden. They have not yet adequately contributed to the provincial revenues, and they therefore should be taxed.

Then, the last thing that is intended to be done by this Act is to make this measure a permanent one and the reason advanced by the Honourable Minister is that the time of the House need not be taken up every year in discussing the same things over and over again. Secondly, that there is no possibility of the Government giving up this revenue in the near future; and thirdly that if it is found advisable to give up this tax in favour of some other equitable tax, then it will not be difficult to repeal this Act. None of these grounds appear to me to be sound. It was only yesterday that we heard from the Honourable the Finance Minister why in the Lower House the life of the Finance Bill was, on the motion of Government, limited only for a period of one year. The reason given was that that being a tax it was fair that it should come up before the Legislature every year and a convention should be established that the taxation measures should come before the Legislature for vote every year and they should not be of a permanent nature. What is true of a Finance Bill, I think, is equally true of this Bill, because this Bill also seeks to impose tax—

The Honourable Mr. MORARJI R. DESAI: On a point of information, Sir. I am told that the Finance Minister yesterday said that the Finance Bill should come and not every Bill.

Mr. S. C. JOSHI: I have not also said, Sir, that every Bill imposing a tax should come before the Legislature every year. That is not what the Honourable the Finance Minister said. What he said was that the Finance Bill should come and I am arguing that this Bill is nothing but another form of a Finance Bill. It imposes a tax and is intended to make good the loss which the Government would suffer on account of the prohibition policy which they have accepted and which they have introduced. A measure like this particularly, which imposes a tax on the poorer class of people ought to come before the Legislature every year just as any other Finance Bill ought to come every year. To me there is no difference between a Finance Bill of this kind and of any other kind. Government might make a difference between stamp duty, court fees, electricity duty, gas duty which may be imposed, or the duty on tobacco.

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But in my opinion all these measures should be treated alike. You should not try to discriminate or draw a fine distinction between one measure imposing a tax on one article and another measure imposing a tax on another article. The very fair and laudable principle which the Finance Minister stated yesterday from the Treasury Benches should be adhered to in respect of this Bill also. Thus, with all these matters which are dealt with in this Bill I am not in agreement, and therefore I oppose the Bill.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, I oppose the first reading of this Bill. We know that when once we have this tax on tobacco, naturally the poor people who are the greatest consumers of tobacco will be taxed and they will have to pay this additional burden. We are told that tobacco is the poor man's luxury. Unfortunately, the state of these poor men has practically come to such a pass that all their necessities have been described as their luxuries, because it is so difficult for them even to get their necessities. We are told that in other countries tobacco is taxed. But we are not told of all the other amenities that the poor people get in other countries. In other countries they get so many other amenities like old age pensions, unemployment dole, insurance, free education; and therefore such a sort of tax may be justified there. But here we find that all things which are necessary for the poor man's day to day life are being made dearer and dearer every day. We find that the post cards which the poor man uses now cost three times their original price. We find that the minimum sum for a money order is now Rs. 10 instead of Rs. 5. Match Boxes are taxed. We have a tax on salt, on entertainments. All these affect the poor people very much. Similarly, these taxes are always being shifted on to the poor, because they are the consumers. In my opinion there is no justification for this sort of tax which affects the poor very hard, unless all other sources of taxation are gone into. The other day during the general discussion of the budget I suggested some other sources and today also I can give an item or two. For instance, we can have a tax on marriages; we can have a tax on bachelors after a particular age; we can also explore the possibilities of having greater income from the betting tax. All these things are not gone into, and this poor man's necessity is suggested first for being taxed and taxed permanently. That is why I oppose it.

The other day we heard somebody remarking that tobacco is a vice and he compared it to wine. I do not think it can at all be compared with wine and it being a necessity and a palliative just to relieve the poor man from the effects of his labour, we should not compare it with wine. It never makes a beast of a man. Further on we cannot make the country puritan by such laws. Education is the only method by which we can improve the condition and the modes of living of our poor people.

Then we are told that some of the licences which were taken by some few persons are being again sold for a high price, at a profit of something like 200 or 250 per cent. But that can be dealt with, by our

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imposing a condition that such a resale would be further taxed, that it should be on stamped paper, and if we tax it at a particular percentage, then of course we can check such resales and Government can get an income from such resales if they are contemplated under peculiar circumstances.

It may be said that there is already a tax on tobacco and a little extra tax would not practically be a great hardship. But we must bear in mind that it is the last straw that breaks the camel's back. For these reasons, Sir, I oppose the first reading.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I think that the Bombay Presidency has now reached the limit of taxation. There is now no scope for levying any taxation, because the people are overburdened. For one wrong step which Government have taken on account of the policy of prohibition, they are taxing each and every item, and I do not know where they will stop. If they go on like this, I think they will levy a tax on parents when a child is born. Yesterday we passed the extra duty on electricity; we have passed enhanced court fees and stamp duties, and today we have this tobacco tax before us.

Sir, to my mind, tobacco is as bad as drink. I do not discriminate between the two. Both are evils. But that does not mean that you should have the policy of prohibition of drink and then tax each and every item. Unless they change their prohibition policy, I do not think they will stop at anything. They will tax any item that comes to their mind. I may warn the Ministry that three "tions" are staring in their faces, and if they do not find out ways and means of tackling these three problems, I mean the problems of prohibition, federation and cultivation, if these three "tions" are not tackled, they will suffer socially, politically and economically; in every way they will suffer.

Sir, they have taken away Rs. 5 lakhs which was promised to the Bombay Municipality out of this tobacco tax. The municipality has to maintain a fire brigade, and provide other amenities to the poor, and to them this sum of Rs. 5 lakhs is like 5 crores. What have Government done to give back these Rs. 5 lakhs to the municipality? Nothing. If they had come forward to give back the Rs. 5 lakhs to the Bombay Municipality by levying enhanced duty on tobacco or any other article, I would not have objected. But as a result of the action of Government the municipality will have to increase the general tax. The fact that Government are levying taxes on all these articles is simply due to their policy of prohibition. By prohibition they will prevent further education and further amenities being given to the poor. In their manifesto they have said that they will give all amenities to the poor masses and the poor agriculturists, and if they continue to carry out this prohibition policy, I do not think they will be able to give these amenities which they have promised to the poor even within 10 or 15 years. Any tax now levied in the Presidency is, as my honourable friend Mr. Deodhekar said, the last straw on the camel's back. Therefore, I oppose this tax because the poor people cannot bear any further taxation.

Sir CURRIMBHOY EBRAHIM (Bombay City *cum* Bombay Suburban District): Sir, in opposing this Bill I rise to place before the House my views. In the first place, the taxation that has been fixed upon inferior and superior tobacco has not been fixed on sound reasoning. The Honourable the Finance Minister stated that as the retail shopkeepers are not able to keep proper accounts, they have not been able to find out what their turnover is. Secondly, he stated that by introducing this Bill, the restriction on the number of licences that was there before has been abandoned. Of course it has been abandoned, but at the same time, when it is abandoned there will be very keen competition. When the licences were restricted, only a certain class of people used to benefit, and those people as a rule were widows or servants who had probably collected their lifelong savings of Rs. 200 to Rs. 300 and invested in this business. What will now happen to those people? Those people probably will not be able to carry on their little business on the new basis. They will have to suffer under any circumstances.

Then the Honourable the Finance Minister said that they have to collect some taxes by some means or other. In my budget speech I have stated that there are other means of collecting taxes, and those means I had brought to the notice of one of the members on the Treasury Benches, and probably he is paying due consideration to it now. But this sort of taxation would really mean a very great hardship on the poor.

Now, Sir, the small traders and shopkeepers who are trading in tobacco today are not aware what their average income per month is, because they are not able to keep any proper accounts. They are not accountants and they do not know even ordinary book-keeping, and so they do not know exactly what was their investment, what they have realised from their business and what the profit is. I am afraid, therefore, that the tax is to be fixed on a basis which the Government are not aware of, as they will not know what the profit is. It has been based upon information probably with regard to wholesale dealers. That may be one of the bases, and from the explanations that the Honourable Minister has given, I do not think he can say from the retail dealers' accounts what their profits are. It has already been stated by the Honourable Minister that those people are not able to keep proper accounts, and therefore he is not aware as to what actually the turnover of the poor widow or other person who keeps such a shop is. The person has probably worked for a number of years in order to accumulate Rs. 200 or Rs. 300. That amount may not be enough to start a shop, and on the top of it if such a small trader wants a loan of Rs. 100 probably he has to mortgage his whole shop, and after taking the loan he may be getting a few pounds of tobacco to sell it. In these circumstances, I do not think it is advisable at all that this Bill should be accepted by this House. When the Honourable Minister says that the poor traders are not able to keep accounts, what is the use of fixing the tax on a basis which cannot be ascertained? It has also been stated on the floor of the Assembly that this is only an experiment. This experiment will cost the poor a great deal. So this

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Bill should not be pressed, unless the opposite Benches just wish to pass this bill by mere force of their majority.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, as I have already said, tobacco tax is, in my humble opinion, a legitimate tax. In all civilised countries of the world tobacco duty is levied to raise revenue for various purposes. But what appears to me rather regrettable is that Government is finding out avenues for new taxation not with a view to improve their general revenue, because the general revenue will remain the same, namely, a paltry sum of Rs. 12 crores. This is due to the fact that the Government has launched rather in a hurry, or in over-enthusiasm, on a programme of prohibition—an unwanted and unnecessary programme altogether in a country in which the majority, or a good proportion of the population is prohibited from drinking from religious motives. Government have lost sight of the most important fact that there are other duties on their shoulders which call for immediate attention and that these duties are being neglected by them because of that most regrettable effort of making all India dry within a short time. Government are losing this year more than Rs. 30 lakhs and for what purpose? For making the inhabitants of the Ahmedabad City give up their drink. Whether they will succeed or not does not matter to them at all. They are frittering away these Rs. 30 lakhs on a programme which is less valuable than the call of agricultural regeneration and various other measures for nation-building such as mass education, which are being on the contrary starved. They have lost Rs. 30 or 40 lakhs and they are naturally at their wits end to find out new avenues of income and not with a view to augment the revenue for nation-building purposes but simply to fill up a gap of their own creation, or because of their shortsighted policy—with very great regret I say it is a shortsighted policy. Therefore I submit that on that ground I do not welcome the idea of taxing anything if it is to fill a gap which the Government have themselves, through their shortsighted policy, created without looking to the other problems that call for immediate attention. That is the ground on which I shudder at this new taxation. It is an economic waste because Rs. 30 lakhs are thrown at the expense of education on an experiment. Your agricultural programmes, your irrigation programmes, you are trying to keep them where they are and in order to fill up a gap you have brought this tobacco Bill.

Besides these grounds, I submit that the licence fee as laid down is rather high. From Re. 1 to Rs. 50 is a tremendous jump. The Honourable the Revenue Minister has kindly informed us that these licences are sometimes sold for Rs. 200. There may be cases here and there where for example a shop on the Hornby Road or in the Crawford Market—when sold a good amount for it is obtainable for the license or its good will, but that does not mean that the licences which are obtained for Re. 1 are really worth Rs. 200. Therefore, that argument does not at all as a businessman appeal to me. The point is, if you think that Re. 1 licences are sold for Rs. 200 for reasons other than

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those I have referred to, then why not give licences freely and the usual rule of supply and demand will apply. Give licences to as many people as may ask for them and the value of licences will naturally fall and at the same time you will get a larger income. I do not know if this is your object in licence fee being raised from Re. 1 to Rs. 50. I therefore request the Honourable the Revenue Minister to kindly reconsider the figure of licence fee.

The other point is with regard to the *ad valorem* tax and here also it appears to me that 50 per cent. maximum duty is rather exorbitant. This measure, as the Honourable the Revenue Minister has told us, is going to be made permanent because taxation is going to continue from year to year and he has also given us an assurance that if circumstances so arise this Bill can be amended. If that is so, I would put it the other way. Why not start with a maximum limit of say 20 per cent.? Why make it 50 per cent.? Afterwards if you think that 20 per cent. is not becoming a hardship, then you can increase same by bringing in an amending Bill to raise it to say 25 or 30 per cent. Why rush suddenly from Re. 1 to Rs. 50 in the case of the licence duty and why put the *ad valorem* duty at 50 per cent. maximum? In connection with the Bombay (District) Tobacco Act we are rather alarmed at the pace at which you are bringing in taxation. I would, mind you, not object to tobacco duty being levied at a fairly heavy rate if it was going to add to the total revenue but it is not going to so add. It is simply filling in a gap which, with very great respect to the Treasury Benches, I consider to be ill-conceived, hasty and which is a policy actuated more by sentiment and by religious prejudices than by practical statesmanship.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira): Sir, I am afraid my honourable friends opposite are labouring under some misunderstanding and misapprehension. My honourable friend Professor Davar has rather attacked this Bill from an economic point of view. I just recall to his memory an acknowledged fact and request him to look at excise, that is, drink revenue, from the point of view of productivity. Is he prepared to say that that revenue, or for the matter of that, the expenditure incurred by the average poor man in the cities on the drink is a productive expenditure? Surely he will say that it is not. Now when that excise is stopped, that is the consumption of liquor is stopped altogether in cities, then consider the expenditure of the poor people in that city. All the expenditure, or if not all, most of it, incurred by the labourers and the poor people will be a productive expenditure as my honourable friend Mr. Joshi will also have to admit. To that extent the country would be benefited. While I was on the Excise Committee I had put down the figure of such expenditure at Rs. 8 crores. If the drink and drug evil is eradicated from the Bombay Presidency it will benefit the Province to the extent of Rs. 8 crores. All those 8 crores or rather a large portion of it would be spent by the labourers for productive purposes. Of course, there may be some expenditure on luxury or cinemas and other places, I do admit

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that, but most of the expenditure would be for productive purposes. If you are prepared to grant it then I say that such types of taxes, to meet the deficit of the excise, should be welcome to this House.

Coming to the Bill itself, a point was made out that in the city many shops were owned by very very poor people and even widows. My honourable friend Sir Currimbhoy raised that point. I do admit that there is some force in that argument, but at the same time I request him to look at this measure from the point that by raising the fee from Re. 1 to Rs. 25—a number of these shops come under inferior tobacco shops; none of them will be coming under superior tobacco shops—the poor people will be affected to a very small extent. I would take it that the Re. 1 which they formerly paid is just the same as Rs. 25 looking to the turnover and so the Government can take a little additional amount by raising it to Rs. 25,—as an instance suppose there are 1,000 shops in the Bombay City—Government will take Rs. 25,000 instead of Rs. 1,000. So, Rs. 25,000 given by 1,000 shops comes to practically nothing. That is my contention. It is a very small amount considering the profits and the number of shops concerned.

However, my suggestion in one respect to the Honourable the Revenue Minister as regards superior and inferior tobacco is this: we have just started, or rather just succeeded, in producing a somewhat better type of tobacco and as some discretion is given to him in this regard, I just request him that any produce grown in this country whether it be of a cigarette type or of indigenous type should be taken as of inferior quality. Only foreign tobacco which is quite superior and of a different variety should be considered as superior tobacco mentioned in the Bill.

Mr. N. D. DEODHEKAR : Is not Indian produced tobacco equal to foreign tobacco?

Mr. DADUBHAI P. DESAI : Of course, our tobacco is just suitable for an inferior type of cigarette. And as there are superior types of cigarettes as well as inferior types of cigarettes, I request him to just bear in mind this fact that the tobacco grown in this country—of course, it is a very, very small quantity and I do not know whether it comes to Bombay—but it is being used by some people—should be taken as an inferior type.

The Honourable the PRESIDENT : The line of argument that the honourable is taking would be proper if he were moving an amendment to the Bill, so that he can move an amendment with the distinction which is there, but that would be irrelevant on the question of the first reading.

Mr. B. N. KARANJIA : Sir, can I move an amendment ?

The Honourable the PRESIDENT : You can move it at the proper time. (*Interruption.*)

Mr. DADUBHAI P. DESAI : This was the only suggestion that I had to make. I have no further remarks to offer and I support the Bill.

Mr. R. G. PRADHAN (Thana *cum* Nasik *cum* Ahmednagar) : Sir, I wish to deal with some of the objections raised to the enactment of this Bill. My honourable friend, Professor Davar, does not object to this taxation on the ground of principle. He opposes the Bill because of his prejudice against prohibition. His argument is that this is strictly not a Bill introduced for the purpose of adding to our revenue, but a Bill introduced for the purpose of making up, partially it may be, the deficit that may be caused by the policy of prohibition. Now I want to make a submission to him. Will it be right on his part to carry this prejudice against, or his opposition to, the policy of prohibition so far as to oppose a taxation Bill itself ? I appeal to him to consider whether he is not going beyond proper limits in opposing a taxation Bill to which in principle he is not opposed, simply because he is opposed and is vehemently opposed to the policy of prohibition. It seems to me that that is a position which ought not to be taken up by any thinking or responsible member of this House.

Then, Sir, some honourable members have opined that tobacco is a necessity and not a luxury. Well, my view is that it is a luxury, it is not a necessity at all. Of course every luxury has a tendency in course of time to develop or degenerate into a necessity, and what is a luxury and what will begin as a luxury becomes a necessity in course of time. But I do not think that smoking is a necessity even to the poor. It seems to be considered by some honourable members that smoking is for the most part or to a very great extent indulged in by poor people and consequently the burden of this tax will fall mainly on poor people. Well, I demur to that proposition. I do not agree with it. I believe that if a census is taken of those who smoke, it will be found that an overwhelming majority of those are all persons who cannot be described as poor in the sense in which my honourable friends consider poor people. There may be some poor people who smoke, but smoking is for the most part indulged in by people who cannot be called poor. They may not be rich, but may belong to the middle-class, higher middle-class or lower middle-class and I do not think that they can be rightly described as poor. The point is this, whether this additional taxation can be borne by those people who are smokers. In my town, the City of Nasik, a bundle of 25 *bidies* is sold for six pies or nine pies. The question is whether as a result of this taxation, the price of that bundle will be increased and will be increased to such an extent that even taking into consideration the lower strata of people who smoke and who consequently buy *bidies* they will be so much affected that they will be unable to buy this bundle of *bidies*. Well, my submission to this honourable House is that this taxation will not sensibly affect the position of this class of smokers. I maintain that as a result of this taxation the price of the bundle will not be increased. The profits of those who are engaged in this business may, to some extent, be reduced. In my town, and in the district of Nasik, there are some rich businessmen who carry on this tobacco

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business and they are making large profits. They send their *bidies* to C. P. and Berar and large profits are made by them. Their profits no doubt will, to some extent, be reduced, but I do not think that their reduction of profit will be so great as to compel them or as to induce them to raise the price of *bidies* and I am perfectly certain that in spite of this taxation, the price of the *bidies* which are sold by them will remain the same and the poor class of people who indulge in smoking, will not be in the least affected. In fact those poor people whom probably some honourable members have in view are so poor that they cannot afford to have even a square meal per day and I do not think such people indulge—I am speaking broadly, there may be exceptions—but on the whole I do not think such people indulge in smoking or can pay the price of *bidies*. (*An Honourable Member*: Every workman in a mill smokes.) I refuse to consider a workman a poor man. Workmen get decent wages and their wages are going to be increased and I refuse to consider that these workmen in factories who are getting—if not the amount of wages which some people think fair wages—decent wages and their wages are going to be increased. They cannot be considered poor people. Of course it is very easy to say “poor people will suffer”. Just as *sanatanists* always raise the cry “Religion in danger”, so the cry is often raised when taxation is sought to be imposed, “Poor people in danger”, “Poor people affected”. Those people who are employed in mills will not be seriously affected by this taxation and there is no reason why these wage-earners, people employed in mills, should smoke.

Then, Sir, objection is taken on the ground that this is a permanent measure or sought to be made a permanent measure. Well, I make a distinction between this Bill and the other Bills, which should be strictly considered as taxation Bills. My submission is that this is not a taxation Bill at all. Otherwise every Bill which is calculated to produce some revenue will be considered as a Finance Bill. And if it is contended that such a Bill should be submitted to the House every year, the main question is this and it is from that point of view from which the House ought to look at this measure. Is tobacco an article which should be taxed or not? Professor Davar has conceded that in principle it should be taxed.

Then, the next question is, are the rates proposed to be levied under this Bill so high as to fall heavily on that class of people of the population which is considered to be poor? I maintain that the poor people will not be affected by this legislation. On the contrary, there are lots of people, rich people, who indulge in smoking. I myself am a smoker and I have realised to my detriment that I require practically 15 cigarettes every day. I began with 5 and I have come to 15. I certainly think that I have to pay the penalty of this bad habit and if as a result of this taxation, if my bad habit or the bad habit of other people would be reduced and there would be less and less smoking on the part of the smokers, that itself would be a distinct gain. On the whole, looking at the Bill from the point of view of finance or

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ethics, it will be found that this is a piece of legislation which deserves to be supported by this Honourable House.

Mr. N. S. DESAI (Dharwar *cum* Kanara) : Sir, I rise to support the Bill as it is, on the following grounds. We all know that the Ministry has declared its policy as regards liquor, that it will bring about prohibition and eradicate the evil within three years. For that purpose the Government has to lose 3 crores of revenue every year. This has to be made up anyhow. For that purpose, some such thing as tobacco should be found out and it should be taxed. So they were hunting out for something and they have found this tobacco. It is a good selection. Like my honourable friend Mr. Pradhan I think tobacco is an article of luxury and not one of necessity. The Finance Minister in his speech has taken up some doubts to say whether it is a thing of luxury or one of necessity. There was no reason to have any doubt of this kind. I ask a simple question, whether a man can live without tobacco or not. When the answer comes that he can live without it, then it is not a thing of necessity but it is a thing of luxury. I shall give you one instance. Let us suppose that a man is shipwrecked and is cast on some island where no human beings reside, where there is no other vegetation except tobacco plants. Supposing the man is very hungry, not having had anything to eat for some days, do you think that he could eat the tobacco leaves to his heart's content and get himself satisfied? Had there been any other trees, he would have eaten the leaves of those trees and lived. But can he eat the tobacco leaves? With their peculiar smell and other disagreeable qualities, he will never do it? He would prefer dying to eating those leaves. Tobacco is such a thing. (*An Honourable Member* : It will kill him.) That also is true. Every agriculturist knows that tobacco water is used to kill the insect pests that grow on vegetables like potatoes and cabbages. It kills those insects, as it contains something which is poisonous.

Sir, I admit that many men use tobacco in three ways : some smoke, some chew and some snuff. These are the three ways in which it gets into the body. Of course, it is poisonous. I cannot tell you, but it is for the doctors to tell you what it does to the human body. I know that it is used by the poorer classes. But in the same way you know that toddy is also used by the poorer men. When you want to prohibit liquor, are not you going to harass the poor men? They will think that it is a kind of *zoolum* upon them. In the same way, tobacco also is worth prohibiting. But when you have begun one prohibition, if you begin the other prohibition also, it will be more harassment. You have begun one prohibition by law, and tobacco can be prohibited in its own way, that is by making it more dear.

Then this tax will help another principle too, that the poor people should not be taxed and the richer people should be taxed. If at present they can get a bundle of *bidis* for one pice, when the tax is raised they may have to pay 2 pice or 3 pice. All right. Why should he pay so much for it? If he has not the money to pay for it, he will abandon it.

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It is not a thing of necessity. If it is jowar or rice or any other food grain, he must buy it, whatever the rate may be. But it is not so in the case of tobacco. Perhaps, he may feel some difficulty for one or two days; then he will leave it off and will be happy. But the richer people and middle-class people who are addicted to tobacco will not give up the habit. They are able to pay a little more for it, and so the tax will fall upon them.

There is one other thing. In the countryside, even the small boys that go to watch the cattle have all begun to smoke at a tender age. Every youngster while going to the fields will take a bundle of *bidis* and a match box. It has become a general custom among them. For indulging in this habit, whence are they to get the money? In our parts there are garden lands where they grow cocoanuts, betel leaves, plantains and such other things. What do these small boys do? In the morning they go to their garden and without the knowledge of father steal some cocoanuts, plantain leaves and betel leaves; they bring the things to a shop and give one or two cocoanuts or other articles to the shopkeeper and get some *bidis* and a match box from him, and then they would go to the tea shop, give 2 or 3 cocoanuts to that shopkeeper and take a cup of tea and some eatables. Such things are happening every day.

An Honourable MEMBER: They will now take away 3 or 4 cocoanuts instead of 2.

Mr. N. S. DESAI: That is what is happening. What will be the result? By the end of the year, the father goes to the garden and sees that all the trees are bare. Nobody has stolen the leaves and fruit but the children. What can he do? Such things are happening every day. In order to put a stop to it, tobacco should be taxed heavily, and I am of the opinion that it should be taxed still heavier.

There is one other thing. Tea shops also should be taxed. When the present Ministry will take that into its head I do not know. For these reasons, I support this Bill very heartily and congratulate the Honourable Minister for having brought such a Bill and for having found out such an article in the first place for taxation.

The Honourable the PRESIDENT: I do not wish to curtail any discussion on this Bill, but in addressing the House honourable members will remember the arguments that have been already advanced and avoid repetition, so that time may not be unnecessarily taken up. I am not asking any one not to take part in the debate, but repetition of arguments and points that have been once placed before the House should be avoided.

Mr. S. R. HALDIPUR (Dharwar *cum* Kanara): Sir, I rise to support the Bill. The other day my honourable friend Professor Davar criticised the Government severely for not being bold enough to take courage in their hands and come out with fresh proposals for new taxation in order to supply money for nation-building purposes. On that occasion and today also my honourable friend Professor Davar has criticised the

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prohibition policy of the Government. It is no good criticising the same policy over and over again when Government have once for all adopted that policy. Government have of course settled the policy of prohibition, and they have now to find means for making up the loss in revenue on account of the policy of prohibition. Government are very cautious. They have not come forward with such proposals for taxation as to make up at once the amount of Rs. 3 crores or Rs. 3½ crores which they are likely to lose on account of their prohibition policy. The present is a proposal in order to increase the revenue to some extent only.

Sir, I fully agree with my honourable friend Mr. Pradhan when he says that tobacco smoking is not a necessity. I can go still further and say that it is a vice. In my own opinion, the smoking, the chewing or the snuffing of tobacco is not at all required for a human being to live. There are lakhs of people who do not smoke, chew or snuff tobacco.

An Honourable MEMBER : What about tea and coffee ?

Mr. S. R. HALDIPUR : I may go further and say that they are also not good for health. But there are so many things which we are going to indulge in on account of our association with Western people. Smoking was not so prevalent in our society formerly.

An Honourable MEMBER : Coffee did not come from Western people. It came from the East.

Mr. S. R. HALDIPUR : It may come from the East or the West, but it is not a necessity. Smoking is not good for health. We see that those who indulge in heavy smoking suffer in their old age from cough and similar complaints. It is true that poor people indulge in smoking and they are likely to be affected to some extent. The same is the case with liquor drinking. If we go to the poorer class of society we shall see that 75 per cent. of them are addicted to drink, but when we see that they are losing money on account of drink and that it is not also good for their health, then it is our duty to put a stop to drinking. So, if as a result of an increase in the tobacco tax the poor people are made to indulge a little less in tobacco smoking, it will be beneficial for them, and nobody need feel for it.

Again, Sir, while offering their criticism so many honourable members have lost sight of the fact that Government have provided Rs. 50 as the maximum licence fee. The Congress Government are quite alive to the interests of the people. The opposition members need not think that they have got the monopoly of looking to the interests of the poor people and that the Congress Government are not alive to it. The clause says "Subject to the following maxima"; that is, Rs. 50 for superior tobacco and Rs. 25 for inferior tobacco are the maximum fees that will be levied by the Government. They are going to frame rules to regulate the licence fee according to the sales of each individual, and they are not likely to fix more than a reasonable fee.

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My honourable friend Sir Currimbhoy Ebrahim gave the instance of a poor woman with a capital of Rs. 100 who is doing *bidi* business. Of course, nobody need be afraid that from such a person the maximum amount of Rs. 25 or Rs. 50 will be taken by the Government as licence fee. There need be no such apprehension.

An Honourable MEMBER : How are you going to adjust ?

Mr. S. R. HALDIPUR : By rules.

Another Honourable MEMBER : He is not a Minister.

Mr. S. R. HALDIPUR : Though I am not a Minister, I have got common sense. I can read the language of the Bill and I can very well say that if it was the intention of Government to charge Rs. 25 or Rs. 50 as the case may be in each and every case, then they could very well have said that the licence fee for superior tobacco is Rs. 50 and that for inferior tobacco Rs. 25. That would have served the purpose. [Interruption.]

An Honourable MEMBER : Has anybody said that the maximum would be levied in every case ?

Mr. S. R. HALDIPUR : While criticising the Bill it was said that the Bill provides Rs. 50 instead of Re. 1. That is the criticism that we have heard from the opposite side. In order to remove that misunderstanding it is my duty to say that the word "maximum" is specifically put there, and you need not think that the maximum fees will be recovered from all persons, who are dealing in tobacco. Government will of course be reasonable and the scale will be put in such a way that the same fees will not be taken from a person who is dealing in tobacco with lakhs of rupees and a person who is dealing in tobacco with some hundreds only. Rules will be framed and suitable provision will be made. We need not be afraid of that. In my opinion, tobacco is a thing which can very well be taxed and on which licence fee can be taken by Government.

With these words, I support the Bill and trust that it will be accepted by the House unanimously.

Dr. P. G. SOLANKI : Sir, I am surprised to find the Honourable the Revenue Minister in such a hot haste to bring this Bill before the Lower House as well as before this House. Sir, the amount which will be recovered by taxation on tobacco is not going to wipe out the deficit that will be created by the prohibition policy. There is not the least doubt as to the fact that it is the prohibition policy which is forcing the present Ministry to bring in such taxation measures. I fully agree with Mr. Joshi when he said that this Bill, though it is described as a taxation Bill on tobacco, is not a Finance Bill. But as it is, if it had been classified or treated on the same footing as the Finance Bill, and if this Tobacco Bill would have been brought before this House and the lower

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House every year it would have been much better. But I am surprised that the Honourable the Revenue Minister is in hot haste in making it a permanent measure. Since the inception and passing of this tobacco Bill in the last Councils, I have been watching the development. There had been cries from the dealers from the Broach and the Kaira side that they, as well as the growers and the consumers, suffer very heavily from this tax. It has been stated on the floor of this House that tobacco is a luxury. I know and I believe that persons who come from the Surat District will bear me out that there the poor labourers, tillers of the soil and even the landlords, smoke, chew and also use tobacco as snuff. In the Northern India Brahmins are directly prohibited from using tobacco, as drink is shunned by the advanced orthodox Hindus and the Muhammadans. But, as it is, Surat District is addicted to it. This tobacco habit is rampant among all classes, the tillers of the soil, the backward classes, the lower middle classes and high castes, and I say it is a necessity. I am talking of the lower middle and the poorer classes. The Revenue Minister will himself bear me out in this respect because I know that he belongs to my district, i.e. Surat, and he might know that when any guest comes to a poor man's house, if the guest belongs to his own caste or to any other caste amongst whom there is social intercourse, touchability or even untouchability, yet tobacco is the only article which is given as a token of courtesy for entertaining that guest. I do submit that while I make this statement, I am sure that nobody can contradict me. Now, Sir, this taxation ought to have been tried as an experiment for some years and we might have come to some conclusion that so much and no further. Sir, the fact that it is going to be a permanent measure pains me much. My honourable friend Mr. Dadubhai Desai said that all Indian-grown tobacco should be classified as inferior tobacco because cigars and cigarettes could not be made from the tobacco which is grown in this country. Sir, the superior quality of tobacco comes from Egypt and from foreign countries and foreigners and British traders trade in lakhs in this trade. I am sorry we cannot touch such big merchants by increasing duties on their goods, or by imposing more taxation upon their sale.

Then, Sir, it has been stated that the licence fee is not going to fall upon the poor consumers. This argument is always brought forward. But it is always the poor consumer who has to give a lion's share in the matter of taxation. How many of the poor people smoke? I say that in a village three-fourths of the people are smokers. My honourable friend Mr. Narsingrao Desai said that tobacco was a luxury and that it must be prohibited. He also further said that even the medical men were doubtful about its medicinal properties. Sir, from the medical point of view—and here also the Honourable the Revenue Minister will bear me out—I say that it is of great value. In the villages in my district if a person is suffering from indigestion after heavy meals or after heavy feast at some rich man's, or after heavy feasts in marriages, and he takes—they cannot take a peg of whisky or brandy because it is prohibited though the other lower class people do take that or toddy or something

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like *mowra*—a little tobacco, chews it, smokes it and uses it as snuff, then it works as a palliative. There is no doubt about it. Smoking and snuffing, if taken to extremes, have their bad effects. But every thing if taken to extremes has its bad effects. If a man overfeeds himself, he also gets a stupor or has a depressing effect on his mind. In the same way, anything if carried to extremes is a vice and in that way tobacco would be a vice. But what about if it is taken in limited quantity? All these poor people have got limited amenities and limited necessities. So, I consider that in their case tobacco is a necessity. In my district villagers formerly used to keep in their houses a store, for their guests or friends throughout the year, of a maund or two of tobacco. Rich persons like my friend the Honourable the Revenue Minister—

The Honourable Mr. MORARJI R. DESAI: You are richer than myself.

Dr. P. G. SOLANKI: They keep about 40 to 50 maunds even now. I know there are many persons who are in the habit of doing that and if you want to catch them red-handed, I would ask any member of this House to come to my village and examine the clothes of these people. You will find that their clothes are burnt at one place or the other, which will be a positive proof that they are smoking. Then there would be found stains on their clothes, on their dresses which will show that they are either chewing tobacco or snuffing it. Sir, after the hard toil of the man, who from sunrise till the noon-day, say till 1 or 2 p.m. is yoking his bullocks and ploughing in the field, this little tobacco, tobacco in the leaf of a mango tree—you may call it a cigar, cigarette or bidi whatever you like—brings him relief and he feels refreshed to work again till sunset. If this little tobacco you call a luxury, I may ask you, what are you going to leave for this poor man? Tomorrow there may be a taxation on our dresses. They will say you must dress in this way. You should not put on ties, collars and shirts and simply live like a beggar. Sir, if that is going to be condition of our lives I do not know where we will stop.

Sir, the Honourable the Finance Minister has told us that we should hasten slowly and we should not hasten at breakneck speed. Here in the case of this Bill we are hastening in every direction and trying to catch every pie. And what are we doing in this attempt? We are robbing the poor people of their amenities and of their little necessities.

For all these reasons, I agree with my honourable friend Mr. Joshi in opposing the first reading of this Bill.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat): Sir, I wish to offer a few remarks. I submit that this Bill is not a Finance Bill. It has been suggested that every Bill which levies taxation should be considered as a Finance Bill and should be submitted to the House every year. There are a large number of taxes levied under Acts which are permanent and it does not necessarily follow that because a Bill levies a tax it becomes a Finance Bill.

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There is another point which I should like to place before the House for its consideration. It is the other House which has control over finances. It is the other House before which demands are placed and it has the right to vote or refuse to vote the demands. It would not therefore be proper for this House in spite of what the Honourable the Finance Minister said yesterday—I think, he said so not to injure the susceptibilities of this House—I am still of the opinion that this House ought not to deal lightly with measures of taxation or any other measures which have been passed by the other House unless it is a—

Mr. N. D. DEODHEKAR : While considering it on the merits of the case, how can we deal with it lightly ? Is he right in saying so ? That is my point.

The Honourable the PRESIDENT : I think the honourable member has misunderstood the gist of the argument.

Mr. N. D. DEODHEKAR : I would like to understand.

The Honourable the PRESIDENT : He will explain.

Mr. SHANTILAL H. SHAH : The point which I was trying to make is that as the Lower House has the power to grant or refuse demands, this House should be very slow in making amendments and should give due weight to the other House which is a democratic House. That is why I say that when we propose to make any amendments in Bills presented to this House we should not do so unless there are some new arguments which, in our opinion, have not been fully considered in the other House. I do not say that it is not competent for this House to do so, but that it will not be proper and we will not be building up a healthy tradition for this House. We may be going over the same ground and trying to make a show of superiority—

Mr. S. C. JOSHI : On a point of order, Sir. Is the Parliamentary Secretary speaking on behalf of Government ?

The Honourable the PRESIDENT : He is a Secretary of the Party and not a Parliamentary Secretary.

Mr. S. C. JOSHI : I am very sorry, Sir, I have been under the impression that he was a Parliamentary Secretary.

Mr. SHANTILAL H. SHAH : I only hope that my friend will give me the salary.

An Honourable MEMBER : We will never do anything improper.

Mr. SHANTILAL H. SHAH : I am quite sure of that. This Bill seems to have been opposed on the ground that the burden on the poor will be increased. In the City of Bombay licence fee from one rupee is to be increased to Rs. 50 and as has been explained in the Statement of Objects and Reasons, that is due to the fact that the licences are being sub-let. What it is intended to

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prevent is that instead of the middleman making a profit by subletting the licences that profit should come to Government. As to the districts, the intention seems to be that the burden which falls on the retail dealer should be shifted to the wholesale dealer, that is to say, there is no increase of burden on the consumer, but the party who pays the amount is changed and that seems to be borne out from the budget estimates presented to the House. I find that at page 30 of the Budget Memorandum the income from the tobacco duties which in the last year were 18,87 and which are shown in the revised estimates at 19,38 are estimated to bring 19,01, that is, about Rs. 37,000 less. But on the whole from 1936-37 to 1937-38, the income from tobacco duty has not increased. I therefore submit that this Bill is intended merely to shift the burden from one party paying to the other party paying and does not increase the burden on the poor. That is the only point to which I wish to draw the attention of the House.

The Honourable Mr. MORARJI R. DESAI : Sir, as several of my friends on this side have replied to the arguments put forward on this Bill by my friends on the opposite side, I do not wish to tax the patience of my friends here with a repetition of the same arguments. But without meaning any disrespect, I would like to say that I have not heard many substantial arguments against the Act in the various speeches that were made in opposing this Bill. I was surprised to hear from my honourable friend Mr. Joshi that we are going against the promises given by us. I simply failed to understand him when he said that we are going against the promises that we made. I do not remember that so far we have failed to carry out any promises that we have made. On the contrary, it is we on this side who have given greater proofs than anybody else in this country that they are more particular to carry out their promises and they are prepared to suffer in consequence in order to carry out their promises—

Mr. S. C. JOSHI : Not to tax the poor is the promise.

The Honourable Mr. MORARJI R. DESAI : It is impossible in the country in which we are living and the circumstances in which we are living to invent any tax which would not affect the poor at all, and, under the circumstances, it is impossible for us to devise any form of taxation which will be safeguarded in such a way that all the poor people will be exempt from it. It is therefore that this tax also will, perhaps to some extent, affect the poor people. But we are certainly taking care to see that it does not affect the poor people only in such a way that they will be taxed beyond any limit.

Then, unfortunately, there was an argument of prohibition brought in while opposing this taxation. I am afraid that argument was highly irrelevant. As far as the policy of prohibition is concerned, it is settled upon and agreed to by the Legislature and it is no use now drawing the attention of this House or the other House to the evil effects of prohibition. Then, it is said that this measure is brought in in order to fill in the gap created by the prohibition policy and that is why this taxation

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should be opposed and that this taxation would not have been opposed if that had not been the case and if it was meant to provide money for the amelioration of the people. But the policy of prohibition itself is meant for the amelioration of the people and that is why the money that is provided to replace that taxation is meant for the amelioration of the people. There can be no doubt about that. I am surprised that my honourable friend, Professor Davar, professor that he is—

Professor SOHRAB R. DAVAR : It is a question of degrees.

The Honourable Mr. MORARJI R. DESAI : Well, it is no use arguing at length on a point on which we cannot agree. After all, it is a fundamental difference of outlook between my honourable friend and myself.

Then the question about limiting this tax to one year on the analogy of the Finance Bill that has been passed in this House only yesterday. If that analogy had to be carried out as proposed by my honourable friend Mr. Joshi, every tax which is being levied in this Presidency, in this Province, ought to be made an annual affair. And has he realised what it will lead to ? It would only mean that the Budget session should be carried on for six months, because every tax has to be brought in every year and discussed and amended and passed. Then I do not think the work between the two Houses will end within less than three months. But that sort of procedure is unheard of in all countries and I do not understand why it is sought to be suggested in this particular province. After all, in the case of the Finance Bill that policy has been accepted mainly with a view that there should be one Bill which would afford opportunity to this House to discuss the policy of Government and to make a general criticism all round. That purpose is served by bringing in one Bill, but the purpose would be defeated if that analogy were to be extended as proposed by my honourable friend.

My honourable friend Dr. Solanki wanted me to support him in various statements made by him. I may support him in some of the statements of facts made by him, but I cannot support him in the presumptions that are drawn by him from those very facts because, I believe, the presumptions are quite the opposite of what he has said and I am inclined to think that he has helped my case in giving all these facts. After all, when he says that tobacco is offered as a matter of courtesy in the district of Surat, what does that mean ? What do we offer as a matter of courtesy to a guest ? We do not offer him the articles of necessity. Have you ever heard a guest being offered a piece of bread or dal or rice ? We cannot offer them that. We offer them the best that we have. We offer them articles of luxury. His arguments prove that it is a matter of luxury. When we treat a guest, we do not feed him with ordinary food, we feed him with sweetmeats and all such things. It is an argument which goes against him and I am glad that he advanced that argument. But all the same, I do not want to prove here by any argument that tobacco is a matter of luxury or otherwise, but I can only say that tobacco is not at all a matter of necessity. It does not require any argument. If bidies become a bit dearer and

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people smoke a little less, it is not going to cause any harm to anybody or to poor people. On the contrary, I believe, their nerves will be strengthened. I have heard from the most reliable authorities that smoking may not be very harmful, but it does affect the nerves and rather weakens them. It is, however, not from that point of view that this taxation has been brought. It is not as a part of the prohibition policy. Because if we believe that tobacco is a thing which requires to be prohibited entirely, we would begin with a straightway prohibition policy, and not in this manner. That is why it is not necessary to consider that point of view at all.

I have nothing more to say because, as I said before, I have not heard any very substantial reasons against this Bill except in the matter of the licence fees, as pointed out by my honourable friend on my right. These fees are maximum fees and they are not to be levied as maximum on all the people and that is one of the reasons why we want rule-making powers whereby we can make rules so that they cannot affect poor people—

Professor S. R. DAVAR : On a point of information, may I know whether it will be 50 per cent. in some cases and less in others and whether the maximum will be enforced straight-off in some cases ?

The Honourable Mr. MORARJI R. DESAI : The rate is yet to be decided. On people with less profits there is no intention of charging 50 per cent. or maximum. There is no intention of charging maximum at all. I have nothing more to say. I would only request the House to pass the first reading of the Bill with one voice.

Question, "That Bill No. IX of 1938 [An Act to amend the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933] be read a first time," put, and agreed to.

The Honourable Mr. MORARJI R. DESAI : Sir, I beg to move that Bill No. IX of 1938 [An Act to amend the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933] be read a second time.

Question put, and agreed to.

Bill read clause by clause.

Clause 1 (*Short title*) ordered to stand part of the Bill.

Clause 2 (*Amendment of section 11 of Bom. IV of 1857*).

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar) : Sir, I move the following amendment :

In clause 2 (2) (a), substitute "25" for "50."

I need not repeat the reasons for this amendment, because in the discussion on the first reading of the Bill they have been given. The chief reason is that we should not jump from Re. 1 to Rs. 50 all at once, and that is why I have suggested this amendment. I hope it will be accepted.

Question proposed.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District) : Sir, in the course of my observations on the first reading I said that if a lower fee is charged and licences are issued more freely, there is no chance of the fear which the Revenue Minister expressed, that the licensees would misuse their monopoly by selling it for Rs. 200 and taking it from Government for Re. 1. If that is the main basis or foundation on which the licence fee has been sought to be increased for superior and inferior tobacco to Rs. 50 and Rs. 25, respectively, then I would just appeal to the Honourable the Revenue Minister to consider whether something could not be done in this direction.

Mr. B. N. KARANJIA : On a point of information. I wanted to know from the Revenue Member how many licensees there are at present.

The Honourable the PRESIDENT : In Bombay City or the Province ?

Mr. B. N. KARANJIA : In the Province, because the tax is to be levied in the Province.

The Honourable the PRESIDENT : But this applies to the town of Bombay.

Mr. B. N. KARANJIA : Then figures of the licensees for the town may be given.

The Honourable Mr. MORARJI R. DESAI : The number is 1,432 country tobacco and 3,547 foreign tobacco ; about 5,000 in all.

Mr. B. N. KARANJIA : Therefore, if I have understood him correctly, there are 5,000 licensees. Suppose as a result of a reduction in the licence fee the number of licensees is increased to 10,000, you will get the same income by reducing it from Rs. 50 to Rs. 25.

The Honourable Mr. MORARJI R. DESAI : Sir, I do not know how it is presumed that we have raised these fees in order to increase revenue.

The Honourable the PRESIDENT : Is this the final reply ? There are some other members who want to speak.

The Honourable Mr. MORARJI R. DESAI : This is not the final reply. I was just making a statement, so that it might curtail the discussion. It is only with that view that I wanted to say something. I was not exercising my right of reply.

As regards the proposal to reduce this maximum of Rs. 50 to Rs. 25, it has been considered very carefully and it is not possible for Government to accept it. It is not because we want to raise revenue out of this item that this higher licence fee is proposed, but even the deputations that we received and some of the wholesale dealers with whom we had discussed the matter were all of the view that superior tobacco should be taxed much more than what it is taxed. Some of them proposed that even the present duty of Rs. 30 which is levied should be raised.

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This licence fee of Rs. 50 maximum is not going in any way to act harshly on that tobacco at all.

Another reason for not lowering the licence fee to such an extent is that there may be very cut-throat competition which is feared in some quarters because of the removal of monopoly. We do want to remove the monopoly, because a monopoly is always a bad thing, but at the same time we do not want to do it in such a way that any man, whether he has the means or not, whether he has the intention or not, should not be able to take out a licence and harass *bona fide* licensees. Supposing we kept a fee of a rupee or two or made it free, anybody would apply for it, engage a little shop or sit on the footpath near a shop which is doing good business and try to extort some money from the shopkeeper by trying to undersell him or by some such tactics, which happens many times in such cases. It is in order to have an automatic adjustment and automatic control that we are keeping this licence fee at a respectable figure.

Dr. K. A. HAMIED (Bombay City *cum* Bombay Suburban District) : Sir, I only wish to draw the attention of the House to the fact that the taxation proposed here by the Honourable Minister is only the maximum, and as he has given an assurance that that taxation will be varied from case to case—it may be Re. 1, in some cases Rs. 5, and so on up to Rs. 50—the necessity of this amendment does not arise. I therefore oppose the amendment.

Amendment put. The House divided. Ayes, 10 ; Noes, 17.

Division No. 1.

Ayes.

CURRIMBROY EBRAHIM, Sir	SOLANKI, Dr. P. G.
DAVAR, Professor SOHRAB R.	STONES, Mr. FREDERICK
DEODHEKAR, Mr. N. D.	TAMBE, Mr. MAHOMED AMIN WAZEER
JOSHI, Mr. S. C.	MOHOMAD.
KARANJIA, Mr. B. N.	VIRKAR, Mr. M. B.
MAKAN, Khan Sabeb MAHOMED IBRAHIM	

Tellers for the Ayes : Mr. M. B. VIRKAR and Dr. P. G. SOLANKI.

Noes.

ATAWANE, Mr. A. M.	MARWADI, Mr. P. S.
BHOSLE, Mr. M. G.	MEHTA, Mr. CHUNTBHAI L.
DESAI, Mr. DADUBHAI P.	MEHTA, Mrs. HANSA JIVRAJ
DESAI, Mr. NARSINGRAO S.	PATANKAR, Major Sardar BEHMRAO
DESAI, Sardar Rao Bahadur	NAGOJIRAO
CHANDRAPPA B.	POTDAR, Mr. B. B.
GANDHI, Mr. RATILAL M.	PRADHAN, Mr. R. G.
GUIDO, Mr. T. M.	SHAH, Mr. SHANTILAL H.
HALDIPUR, Mr. S. R.	SOMAN, Mr. R. G.
HAMIED, Dr. K. A.	

Tellers for the Noes : Mr. RATILAL M. GANDHI and Mr. S. R. HALDIPUR.

Mr. S. C. JOSHI : Sir, I do not propose to move my amendment No. 1, i.e. :

" In clause 2, item (2) (b), substitute ' 5 ' for ' 25 '."

I move my next amendment, which is as follows :

" Clause 2 item (2) (b) inferior tobacco substitute Rs. ' 10 ' for Rs. ' 25 '."

Question proposed.

Mr. S. C. JOSHI : Sir, this amendment which seeks to reduce the maximum fee of the licence on inferior tobacco to Rs. 10, is very important. So far as this point is concerned, even the deputation that waited upon the Honourable the Revenue Minister urged that this fee should be reduced. At least in this case there was no request by them that it should be increased and this kind of tobacco is a tobacco which is used more by the poor and the middle class people, and it is but fair that the taxation should be less on these classes of people while the taxation should be raised on the richer class of people. With these words, I move my amendment.

Mr. N. D. DEODHEKAR : Sir, I support the amendment.

The Honourable Mr. MORARJI R. DESAI : Sir, for the reasons given already by me on the other amendments, it is not possible for Government to accept this amendment and I am sorry I have to oppose it.

Amendment put, and negatived.

Clause 2 ordered to stand part of the Bill.

Clause 3 (*Amendment of section 1 of Bom. II of 1933*).

The provisions of the Bombay (District) Tobacco Act, 1933 (hereinafter called "the District Act"), continued in force up to and inclusive of the 31st day of March 1938 by Government Notification (Revenue Department) No. 480/28, dated the 31st March 1937, issued under paragraphs 6 and 14 (1) of the Government of India (Commencement and Transitory Provisions) Order, 1936, are hereby further continued in force by the deletion of the words "and shall remain in force for a period of four years" occurring in sub-section (3) of section 1 of that Act, subject to the modifications hereinafter provided.

Mr. S. C. JOSHI : Sir, if you will permit me, I have redrafted the amendment slightly and the amendment will read as follows :

In clause 3 for the words

" by the deletion of the words ' and shall remain in force for a period of four years ' substitute the words ' by the substitution of the words " six years " for the words " four years " " "

The Honourable the PRESIDENT : As copies of this amendment have not been circulated, I will read the amendment for the information of the honourable members. The amendment is as follows :

In clause 3 for the words

" by the deletion of the words ' and shall remain in force for a period of four years ' substitute the words ' by the substitution of the words " six years " for the words " four years " " "

That means that the life of the Bill should be for one year. That is the substance of the amendment.

Mr. S. C. JOSHI : Sir, the clause as amended will read as follows :

" are hereby further continued in force by substitution of the words ' six years ' for the words ' four years ' occurring in sub-section (3) of section 1 of that Act, subject to the modifications hereinafter provided."

I have already given the reasons why I feel that the life of this Act should be extended only to one year and it should not be made a permanent measure. I do not want to take up the time of the House, but I wish to say one word only. Sir, whatever may be the reasons which have led Government to make this Act a permanent measure, this new taxation is intended to replace the revenue which will be lost to the Province on account of the prohibition policy of Government and I think that that taxation should be subjected to the revision of the House every year. The arguments advanced by the Honourable the Revenue Minister are more in favour of limiting the life of this Bill for the period of one year instead of making it a permanent measure. His own argument will, I think, convince him, and he will persuade himself to support the Opposition so far as this amendment is concerned.

The Honourable Mr. MORARJI R. DESAI : Sir, I am surprised to hear that my own arguments will convince me. I cannot understand how my own arguments will convince me against my arguments. It is a very strange kind of pleading which I never expected from such a learned lawyer as my honourable friend Mr. Joshi. Sir, I have already explained why Government want to make this a permanent Act and, as I have heard no new argument except the argument that my own argument will convince me, I see no reason to advance any new arguments at this stage. I am sorry that I cannot accept this amendment also.

Amendment put. The House divided : Ayes, 10 ; Noes, 16.

Division No. 2.

Ayes.

CURRIMHOY EBRAHIM, Sir
DAVAR, Professor SOHRAE R.
DEODHAR, Mr. N. D.
JOSHI, Mr. S. C.
KARANJIA, Mr. B. N.
MAKAN, Khan Sahib MAHOMED IBRAHIM

SOLANKI, Dr. P. G.
STONES, Mr. FREDERICK
TAMBE, Mr. MAHOMED AMIN WAZEEK
MOHOMAD
VIRKAR, Mr. M. B.

Tellers for the Ayes : Mr. M. B. VIRKAR and Dr. P. G. SOLANKI

Noes.

ATAWANK, Mr. A. M.
BHOSLE, Mr. M. G.
DESAI, Mr. DADUBHAI P.
DESAI, Mr. NARSINGRAO S.
DESAI, Sanjar Rao Bahadur
CHANDRAPPA B.
GANDHI, Mr. RATILAL M.
GUIDO, Mr. T. M.
HALDIPUR, Mr. S. R.

HAMIED, Dr. K. A.
MARWADI, Mr. P. S.
MEHTA, Mr. CHINUBHAI L.
MEHTA, Mrs. HANSA JIVRAJ
POTDAR, Mr. B. B.
PRADHAN, Mr. R. G.
SRAH, Mr. SHANTILAL H.
SOMAN, Mr. R. G.

Tellers for the Noes : Mr. RATILAL M. GANDHI and Mr. S. R. HALDIPUR.

Clause 3 ordered to stand part of the Bill.

The Honourable the PRESIDENT: As there are yet several amendments, and it is only three minutes to our usual time for tea, I think that we better adjourn now at this stage. There may perhaps be some divisions also.

Mr. S. C. JOSHI: Sir, we do not now wish to have a division on any amendment. I do not wish to make any speech on them, so that we may finish early.

The Honourable the PRESIDENT: Very well. We will continue.

Clause 4 (*insertion of new section 7A in Bom. II of 1933*).

After section 7 of the District Act, the following section shall be inserted, namely:—

“7A. Notwithstanding anything contained in section 7, the Provincial Government may in addition to the license fee leviable under the said section, levy also a tax at such rates, subject to such conditions and in such areas as may be prescribed, on any sale of tobacco on *ad valorem* basis not exceeding 50 per cent. of the price of such sale.”

Mr. S. C. JOSHI: Sir, I beg to move:

“In clause 4, section 7A, for the figure ‘50’ substitute ‘25’.”

Question proposed.

Mr. S. C. JOSHI: Now, this is a clause relating to sale tax and I desire that sale tax on tobacco should be on the basis of not exceeding 25 per cent. of the price of such sale. I do not want to make any speech because arguments have already been advanced in support of this in the first reading.

The Honourable Mr. MORARJI R. DESAI: Sir, I oppose the amendment.

Amendment put, and negatived.

Clause 4 ordered to stand part of the Bill.

Clause 5 (*Amendment of section 27 of Bom. II of 1933*) ordered to stand part of the Bill.

4-30 p.m. Clause 6 (*Amendment to Schedule to Bom. II of 1933*):

For the Schedule to the District Act, the following shall be substituted, namely:—

“SCHEDULE.

(SECTION 7.)

License Fees.

	Rs.
Wholesale—	
Maximum rate	50
Retail or Hawker—	
(1) Maximum rate in any urban area which the Provincial Government may, by notification published in the official gazette, specify—	
Superior tobacco	50
Inferior tobacco	25
(2) Fixed rate in any other area	2
Broker—fixed rate	2

Mr. S. C. JOSHI : Sir, I beg to move :

" In clause 6, Schedule, item (1), *delete* " Inferior Tobacco.....Ra. 25 " and *substitute* instead " Inferior TobaccoRa. 10."

I have substituted 10 for 5 and I do not move the rest of my amendment.

Question proposed.

The Honourable Mr. MORARJI R. DESAI : Sir, I oppose the amendment.

Dr. K. A. HAMIED : On a point of order, Sir. The amendment has not been seconded.

The Honourable the PRESIDENT : It is not necessary. I will now put the amendment to the House.

Amendment put, and negatived.

Clause 6 ordered to stand part of the Bill.

Clause 7 (*Saving*) ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

The Honourable Mr. MORARJI R. DESAI : Sir, I beg to move that Bill No. IX of 1938 [An Act to amend the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933] be read a third time and passed.

Question put, and agreed to.

The Honourable the PRESIDENT : The Bill is read a third time and passed.

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT : There is no further work at present and, in view of the desire expressed by some members to me yesterday, I consulted the Prime Minister as to the work and I learn that Government is agreeable to the adjournment of this House till the 28th. March. I wish to point out to the House that there are going to be supplementary demands in the Assembly and they are likely to be there on the 24th. If the House is adjourned to the 28th, the supplementary grants will come to us and will be discussed and passed on the 28th. If you want any earlier date we can fix it ; otherwise 28th will be four days after the supplementary grants are passed by the Assembly. May I take it that the honourable members are agreeable to the adjournment of this House till the 28th ? [*Honourable Members* : " Yes, Sir."]

The House then adjourned till 2 p.m., on Monday, the 28th March 1938.

Monday, the 28th March 1938.

The Council re-assembled at the Council Hall, Bombay, on Monday, the 28th March 1938, at 2 p.m., the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HALDIPUR, Mr. S. R.
 HAMIED, Dr. K. A.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, Khan Saheb A. A.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MARWADI, Mr. P. S.
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 PATANKAR, Major Sardar BHIMRAO NAGOJIRAO
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
 VIRKAR, Mr. M. B.

The following Honourable Ministers were also present :

The Honourable Mr. A. B. LATTHE

The Honourable Dr. M. D. D. GILDER

NEW MEMBER SWORN.

Khan Saheb Abdul Kadir Abdul Aziz Khan.

STARRED QUESTIONS AND ANSWERS.

DETAILED LIST OF DEPARTMENTS GROUPED ACCORDING TO CERTAIN CLASSIFICATION ON WHICH THE FINANCE MINISTER PROPOSED TO SPEND MONEY.

*Mr. S. C. JOSHI: Will the Honourable the Finance Minister be pleased to give with reference to the Budget speech delivered to the Assembly on the 25th February 1938, a detailed list of the departments, expenditure on which has been attempted to be classified under the following heads :—

- (1) Primary activities of Government ;
- (2) Public utility and Nation-building activities ;
- (3) Collection charges of revenue-earning departments.

The Honourable Mr. A. B. LATTHE: The following was the classification adopted by me. As I made it clear in my speech, it is a rough and ready classification :—

- (1) Primary activities of Government.
 - General Administration,
 - Administration of Justice,
 - Jails,
 - Police,
 - Stationery and Printing.
- (2) Public utility and Nation Building activities.
 - Scientific Departments,
 - Education,
 - Medical, —
 - Public Health,
 - Agriculture,
 - Veterinary and Co-operation,
 - Industries,
 - 47-Miscellaneous Departments,
 - Civil Works,
 - Bombay Development,
 - Famine Relief,
 - 57, Miscellaneous Departments,
 - Irrigation-Interest ; works,
 - Interest on debt,
 - Appropriation and Avoidance of Debt,
 - Expenditure from Motor Vehicles Taxation.
- (3) Collection charges of revenue-earning Department.
 - Land Revenue,
 - Excise,
 - Stamps,
 - Forest,
 - Registration,
 - Other Taxes.

AMOUNT SPENT BY GOVERNMENT ON PRIMARY ACTIVITIES, PUBLIC UTILITY ACTIVITIES AND NATION-BUILDING ACTIVITIES OF GOVERNMENT.

*Mr. S. C. JOSHI: Will the Honourable the Finance Minister be pleased to give figures of the last ten years regarding the expenditure incurred in the Bombay Presidency excluding Sind on—

- (1) Primary activities of Government,
- (2) Public utility or Nation-building activities of Government, and
- (3) Collection charges of revenue-earning departments ?

The Honourable Mr. A. B. LATTHE: The information asked for by the Honourable Member cannot be supplied as separate figures of the Province of Bombay excluding Sind are not available for the period prior to 1934-35.

Mr. S. C. JOSHI: Will it be very difficult to find out the figures I have asked for for the Province of Bombay excluding Sind ? I would like to have them ; they will be very useful for making comparisons in the future.

The Honourable Mr. A. B. LATTHE: I am afraid it will be very difficult, because the accounts for the past years before Sind was separated are all accounts for the Province as it then was, and to separate the accounts of the three Divisions from those accounts would be rather very difficult.

HARDSHIPS OF THE PASSENGERS GOING TO AFRICA AS REGARDS OBTAINING VACCINATION CERTIFICATE FROM COMPETENT AUTHORITIES.

*Mr. A. W. TAMBE (Southern Division): Will the Honourable the Minister for Public Health be pleased to state—

(a) whether, under instructions from the Port Health authorities in Africa, every person applying for a passage to Seychiles islands or any port in Africa must be successfully vaccinated and must produce a certificate to that effect ;

(b) whether the certificates issued by the Government vaccinators or Medical practitioners are not accepted unless they are countersigned by an official who must be either the "Civil Surgeon" or the "Municipal" or "the District Health Officer" ;

(c) whether the passengers, though already vaccinated by the Government vaccinators or medical practitioners, have to go to the far off district towns for getting their certificates countersigned by the Civil Surgeon or the Municipal or the District Health Officer, of that area ;

(d) whether Government contemplate to authorise the Medical officers in charge of the Government aided dispensaries at taluka towns or at other places, to issue certificates or to countersign, free of any charge, the certificates issued by the Government vaccinators or medical practitioners ?

The Honourable Dr. M. D. D. GILDER : (a) Passengers are required either to possess a certificate of vaccination issued by a registered medical practitioner showing that vaccination has been performed not less than twelve days and not more than three years before the date of embarkation or to bear scars or marks of a previous attack of small-pox.

(b) Yes : but certificates can also be countersigned by Directors or Assistant Directors of Health, Port Health Officers of major ports, Chief Medical Officers of Railways, Chief Medical Officers and Directors of Public Health in Indian States who possess a certain qualification, and Medical Officers of Railways who possess a certain qualification.

(c) The vaccination certificates may be countersigned by any of the medical authorities mentioned above free of charge. The Honourable Member's attention is invited to the Notice to passengers from India to foreign ports issued by the Provincial Government under instructions from the Government of India, printed below.*

(d) No. It is clear from the Circular mentioned in (c) above that certificates of officers below a certain status will not be acceptable in foreign ports.

*NOTICE TO INTENDING PASSENGERS FROM INDIA TO FOREIGN PORTS.

To prevent the spread of small-pox from infected countries it was decided at the Regional Conference of the League of Nations held at Cape Town in 1932, that intending passengers from such countries should not be permitted to embark for foreign ports unless they are in possession of valid vaccination certificates, and that facilities should be provided for the issue of such certificates.

It is, therefore, necessary that passengers from India to foreign ports should either possess a certificate of vaccination issued by a registered medical practitioner showing that vaccination has been performed not less than 12 days and not more than 3 years before the date of embarkation or bear scars or marks of a previous attack of small-pox.

Passengers bound for East and South African ports and Iraq and pilgrims proceeding to Saudi Arabia must possess certificates of vaccination granted by (i) Civil Surgeons, (ii) District or Municipal Medical Officers of Health, (iii) Directors or Assistant Directors of Health, (iv) Port Health Officers of major ports, (v) Chief Medical Officers of Railways, (vi) Chief Medical Officers and Directors of Public Health in Indian States who possess a qualification included in the Schedules to the Indian Medical Council Act, 1933, (vii) Senior Medical Officers in charge of military stations and (viii) District Medical Officers of Railway whether in British India or in Indian States who possess qualifications recognised under the Indian Medical Council Act, 1933. If such certificates are granted by other registered medical practitioners, they must be countersigned by one or other of the officers mentioned above. This countersignature shall be obtained free of charge to the passenger by the Registered Medical Practitioner granting the certificate.

All passengers from India to foreign ports are advised to comply with these rules if they are to avoid inconvenience and possibly detention at the port of debarkation.

UNSTARRED QUESTIONS AND ANSWERS.

PATILKI AND KULKARNI APPOINTMENTS.

Mr. N. S. DESAI (Dharwar *cum* Kanara) : Will the Honourable the Revenue Minister be pleased to state—

(a) the number of appointments of Patilki and Kulkarniki, respectively, in the 2nd Division of the Dharwar District from the 1st January 1936 to 31st July 1937 ;

(b) how many Representative Watandars and how many deputees offered themselves for appointment ;

(c) how many of these deputees were from Watandars and how many were Parai Patilki and Kulkarniki, respectively ;

(d) how many Representative Watandars of each class were rejected ;

(e) how many deputees from Patilki and Kulkarniki Watan families were rejected, respectively ;

(f) how many Parai deputees were rejected ; Patilki and Kulkarniki (both separately) ;

(g) how many of them were rejected on the ground of disqualifications and how many for other special reasons ? Figures should be given separately for the Patilki and Kulkarniki appointments.

The Honourable Mr. MORARJI DESAI : (a) to (g) Two statements containing the information are placed on the Council table.

I

Statement showing the number of appointments of Kulkarnis from 1st January 1936 to 31st July 1937 as per Council Question, No. 1 (by Mr. N. S. Desai, M.L.C.)

Taluka.	(a) Number of appointments of kulkarnis from 1st January 1936 to 31st July 1937.	(b) How many representative watandars and deputies offered.		(c) How many of these deputies were from watandars and how many parais.	
		Representative Watandars.	Deputies.	Watandar deputies.	Parai deputies.
Ranebennur	31	6	25	10	15
Bankapur	44	5	47	13	34
Karajgi	35	5	48	7	41
Hangal	18	1	20	10	10
Kod	42	9	33	6	27
	170	26	173	46	127

Taluka.	(d)	(e)	(f)	(g)	
	How many representative watandars rejected.	How many deputies from watan family rejected.	How many parai deputies rejected.	Disqualification.	Other special reasons.
Ranebennur .. ..	..	2	..	..	2
Bankapur .. ..	..	..	8	..	8
Karajgi .. ..	..	..	18	1	17
Hangal .. ..	..	..	3	..	3
Kod	2	1	1	2	2
	2	3	30	3	32

II

Statement showing the number of appointments of Patils from 1st January 1936 to 31st July 1937 as per Council Question No. 1 (by Mr. N. S. Desai, M.L.C.)

Taluka.	(a)	(b)		(c)	
	Number of appointments of Patils from 1st January 1936 to 31st July 1937.	Representative Watandars.	Deputies.	Watandar deputies.	Parai deputies.
Ranebennur	22	7	15	8	7
Bankapur	31	11	25	6	19
Karajgi	38	15	42	18	24
Hangal	25	12	30	4	26
Kod	32	24	8	4	4
	148	69	120	40	80

Taluka.	(d)	(e)	(f)	(g)	
	How many representative watandars rejected.	How many deputies from watan family rejected.	How many parai deputies rejected.	Disqualification.	Other special reasons.
Ranebennur .. ..	..	2	..	..	2
Bankapur	1	..	5	1	5
Karajgi	1	5	13	1	18
Hangal .. ..	..	..	17	..	17
Kod	1	1	1	1	2
	3	8	36	3	44

PETITION REGARDING REMOVAL OF DISQUALIFICATIONS OF CERTAIN MEMBERS OF THE ANKLESHWAR MUNICIPALITY.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat): Will the Honourable the Minister for Local Self-Government be pleased to state—

(a) whether it is a fact that one Ramanlal Chotalal Bankar had sent a petition dated 27th July 1937 to the Honourable Minister for Local Self-Government regarding the disqualification of Rao Saheb Hiralal T. Desai and Bhogilal Nathubhai Desai, President and member respectively of the Ankleshwar Municipality;

(b) whether it is a fact that the said petition had been referred to the Commissioner, Northern Division, for disposal but that no orders have been passed thereon;

(c) if the answer to (b) is in the affirmative, do Government intend to take steps to have the petition disposed of without any further delay and in any event before the next election of the said Municipality takes place?

The Honourable Mr. L. M. PATIL: (a) Yes.

(b) Yes. The Commissioner, who is the competent authority under the Bombay District Municipal Act, 1901, has passed the necessary orders and communicated them to the parties concerned.

(c) Does not arise.

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT : We will now take up the further demands for discussion.

Mr. RATILAL M. GANDHI : Sir, before we proceed with the work that we have before us, I would like to enquire about the programme of work for the rest of this session.

The Honourable the PRESIDENT : I am expecting the Government to say when they expect to take up the new Bills. Tomorrow we have the Supplementary Grants. Then we have yet to finish the Probation of Offenders Bill. Then there may be some Bills which the Government may like to move. I do not know what the programme is. If they can give some information, I think it would meet with the convenience of the members of this Council.

The Honourable Mr. A. B. LATTHE : I hope, Sir, to be in a position to tell the House a little later what the programme after tomorrow may be. I am not just at the moment prepared to say anything, but as soon as possible we shall tell the House what the programme for the day after tomorrow may be.

Mr. RATILAL M. GANDHI : We would like to know also the dates which would be assigned for private business.

The Honourable Mr. A. B. LATTHE : The Government will give this information as quickly as possible.

The Honourable the PRESIDENT : I understood the Honourable the Finance Minister to say that when the programme for the session is given, the days for non-official business will be announced, and that will give us the whole idea.

***FURTHER DEMANDS FOR GRANTS.**

The Honourable Mr. A. B. LATTHE : May I say, Sir, one thing with regard to the procedure which may be followed? This is the first occasion on which in this House these further demands are being discussed. As you are aware, the other House is also sitting and some of the Ministers are compelled to be present there also. These further demands relate to various Departments, and if the House has no objection, it may be perhaps better if all the demands are discussed just as we discuss the budget, and of course the points would be taken note of by the members who represent the Government here, and then at the end the various Ministers concerned might be able to answer them, if necessary. If each demand is taken by itself, the Minister concerned may not be in a position to be present here just at the time. Take the first demand for instance. It is under the head "Education." Just at this moment the Minister in charge of Education has got to be

[Mr. A. B. Latthe]

in the lower House, because certain supplementary grants in connection with education may come up for discussion there at any moment, and he has got to be present there. Therefore, immediately after the discussion on the first demand here, it might be rather difficult for the Minister in charge to answer the points raised. Probably the Parliamentary Secretary might answer, but that may not quite satisfy the House. I will leave this matter entirely in your hands. I just suggest whether it would be convenient to have the discussion on the various demands as we have the discussion on the budget, and the answers to the points raised may be given in the end. I make this suggestion for your consideration and for the consideration of the House. I am not very particular as to what course may be followed.

The Honourable the PRESIDENT: I would rather like to hear any suggestions which any member may want to make.

*Dr. P. G. SOLANKI: Sir, the discussion on the budget is a general discussion. These are further demands. I find that in the lower House each demand was discussed separately. Speaking for myself, I would like that each demand should be discussed thoroughly, and that can be done if each is taken up separately. I do understand the difficulties of the Honourable Ministers. Unfortunately, the first demand is for education, and the Prime Minister is busy downstairs. But that ought not to handicap us. We do wish that when a demand is discussed the Minister in charge ought to be present here. Under the present circumstances, I would suggest that if the Prime Minister is busy downstairs, we may take up demand No. 2 first, and the Minister in charge of that demand can be present here. In order to facilitate the work of both the Houses, I do submit, Sir, that each demand should have its own chance of being threshed out and discussed by this House, as is done in the lower House.

The Honourable Mr. A. B. LATTHE: I did not catch the last portion of the honourable member's suggestion.

Dr. P. G. SOLANKI: Each demand should be discussed in the same way as was done in the Assembly, and every member should have the opportunity and right to speak on it, instead of speaking on the demands as a whole. Otherwise, we may miss many points. So I submit that each and every demand ought to be discussed separately.

The Honourable Mr. A. B. LATTHE: May I just say in explanation that the procedure to be followed here cannot be the same as the procedure followed in the lower House! In the lower House each demand has to be voted upon, and so it has to be put to the House separately. Here there is no question of voting. It is only a question of general discussion. I have not the least desire that the discussion should be incomplete. Each point may be discussed to the fullest possible extent. I have not the least objection to that, and even if the proposal I have made is followed, I do not think there will be any the less discussion on any of the points here.

* Speech not revised by the member.

Mr. DADUBHAI P. DESAI: Sir, at the time of the budget we do not discuss any demands separately. This is simply a sort of supplementary budget, so that the procedure suggested by the Finance Minister may be followed. We might discuss the demands generally instead of taking up each one separately. The procedure usually followed with regard to the budget should not be departed from in this instance.

The Honourable the PRESIDENT: I think honourable members should first hear what I have got to say in this matter. To me it appears that the further demands are like a supplementary budget. If the main budget was statement A, this may be taken as statement B. On statement A or the main budget there was only a general discussion. This is a part of the whole budget, and one can maintain that we should follow the procedure which we followed regarding the budget. It is not, as I find, that they are asking for it like Supplementary Demands, in which each item has to be discussed and considered on its own merits. On the other hand, it can be said that these are a few items, and if each of the items was taken up separately for discussion, then the discussion can be confined to that, and the Minister in charge, after listening to the discussion, may offer some explanation, and in that way discussion may be curtailed. But that presupposes that when the demand is taken up for discussion the Minister in charge is able to be present. But if he is not present, then we may have to pass over it without the reply of the Minister, which will be a sort of part discussion; we may not have a full and free discussion which is more desirable. It may happen, as it is in the case of the first demand, with which the Prime Minister who is not here at present is concerned, that in the case of other demands also the Minister in charge may not be here. Supposing the discussion comes to an end, and if he is unable to reply as he is absent, then either the House will have to wait till he returns or pass on to the second item, and it would not be a complete discussion. So apart from the convenience of the Ministers, I look at it from two points of view: in the first place, it is part of the whole budget, and so there might be general discussion. Then, looking to the fact that if the Minister in charge is absent, the discussion may come to an abrupt end, and though the members would like to hear the explanation or what he may have to say, they will not be able to do so. In the case of the Budget, it is not that every Honourable Minister replies, but it is the duty of the Honourable the Finance Minister, and he replies to all that has been said. Here, if each Honourable Minister is to reply at the end of the debate on a particular demand, then there will be several replies and, perhaps, it may happen that at the particular time of reply the Minister in charge of that particular department may not be present. These are the points which are weighing with me and, for the present, without laying down any procedure to be followed, looking to the convenience of the Honourable Ministers on this occasion, it would be better if we have a general discussion for the present. If we find any difficulty, later on, in the procedure that we follow, we will follow another procedure. But for the time being we can adopt this and proceed.

Prof. SOHRAB R. DAVAR : Sir, my difficulty in following the procedure you suggest is this. There are certain points on which I should like to have information before we start on the discussion and if the Honourable Minister in charge of that department is not present, or there are no other Ministers who are able to explain, I would not know how to proceed. That is my difficulty.

Mr. N. D. DEODHEKAR : Sir, I wish to make a few observations about the general policy that we should like to follow, and I hope that it will not be construed as discourtesy to the Chair. My point is that we should have the discussion item by item. I beg to differ from the Chair and my reasons—

The Honourable the PRESIDENT : I have made no suggestions. In fact what I have done is to put before the House the pros and cons of the two methods which we can possibly adopt, and I want the House to consider the difficulties it would have to meet if one particular method was followed. No suggestion has been made from the Chair. As a matter of fact, it will not come in the form of a suggestion at all ; it will be a ruling.

Mr. N. D. DEODHEKAR : That is why I said my suggestion should not be treated as showing any discourtesy. I am for the discussion of these further demands item by item and for good reasons. When the Budget is presented to us, it is presented to us as a whole, and we have a general discussion. We have not got an advantage of discussion item by item of any demands. We can—

The Honourable the PRESIDENT : If the honourable member will permit me to interrupt, I myself said that if each demand is discussed separately, it would be certainly more convenient. But then it may happen that the Minister in charge may not be present, and we may have to stop discussing that item for the time being for the reason that the Honourable Minister in charge is not here. Now supposing we take up item No. 1, should the whole discussion on it stand over till the Honourable the Prime Minister is here ?

Mr. N. D. DEODHEKAR : Sir, I am meeting that objection in my further remarks. Just as the Chair has suggested, there would be this difficulty that the particular Minister in charge of the department would not be here. Then, in that case, we shall have to be satisfied with the information that would be supplied to us by the responsible Parliamentary Secretary here.

The Honourable Mr. A. B. LATTHE : Even the Parliamentary Secretaries are not all members here.

Mr. N. D. DEODHEKAR : That is the difficulty which should convince the Ministry of the need of taking one or two Ministers from this House. We hope it will take this hint and it will be an advantage to our House that there will be a Minister or two from amongst us.

Mr. SHANTILAL H. SHAH : Sir, may I in this connection invite your attention to rules 28 and 28A on page 14 of the Legislative Council Manual ? Rule 28A says :

“ Demands for grants made under 32A of the Bombay Legislative Assembly Rules shall be presented to the Council on such day as the Governor, exercising his individual judgment, may appoint and shall be dealt with in the same manner as the Budget.”

That is to say the further demands are in the nature of a supplementary budget. The rule says “ shall be dealt with in the same manner as the Budget ”. I therefore submit that it is not necessary to take these demands item by item, as we do not take the demands in the budget item by item.

The Honourable the PRESIDENT : That is precisely the rule I stated at the outset to show that the discussion should be general, but looking to the convenience of the members I suggested that discussion may go on item by item, subject to the difficulty that perhaps the Minister in charge may not be present to give a reply. Then I understood from the Honourable the Finance Minister that in each of these cases the particular Minister in charge would reply. That is not the procedure that is followed in the case of the budget, and if we follow the procedure that we follow at the time of the budget then it would not require the presence of the other Honourable Ministers at all. The Honourable the Finance Minister is here and that is why the discussion began.

The Honourable Mr. A. B. LATTHE : Even in the case of the budget discussion sometimes, if there are any points for other Ministers, they do reply, though I do not mean that each Minister is necessarily to reply to every item in his department. If there is anything of importance which turns up, then the Minister in charge may find it convenient to reply. Otherwise—

The Honourable the PRESIDENT : I think the Honourable the Finance Minister would reply.

The Honourable Mr. A. B. LATTHE : Yes.

The Honourable the PRESIDENT : Then I will put these demands one by one, because the discussion can take place, but the honourable members will not expect the particular Minister in charge to give a reply. The reply will be given by the Finance Minister and, if he thinks that the particular reply should come from the Minister in charge, then he will not reply. So I will now put demand No. 1 for discussion.

Mr. SHANTILAL H. SHAH : But, Sir, the rule says that the demands are to be put as a whole.

The Honourable Mr. A. B. LATTHE : That is the meaning of the rule.

The Honourable the PRESIDENT: This is only for convenience. If we take all together, then the discussion cannot be confined; it will take a long time and the discussion would cover a wider field; it will be just like budget discussion. We have not got any precedent. I am just trying to see how far we can adopt this procedure. This should not be taken as a precedent, but I think if we can go item by item, then the discussion would be shorter and the range of the discussion will be within the limits of the demand.

Dr. P. G. SOLANKI: Sir, if a particular Minister is not present, shall we stop discussion on that item?

The Honourable the PRESIDENT: We have passed that stage. The discussion is on item No. 1 now. (*After a pause.*) If there is no discussion on item No. 1, then we will take up item No. 2 for discussion.

Ayurvedic and Unani Teaching Institutions.

Dr. G. S. MAHAJANI (Poona cum Satara): Sir, regarding item No. 2, I should like to have information on one point. The second sentence runs thus:

"The total amount of Rs. 50,000 recurring and Rs. 50,000 non-recurring will be used for grants to recognised teaching institutions and for starting them in areas where recognisable institutions may not be available."

Now, I want to know whether the second part "where recognisable institutions may not be available, etc." means that Government themselves intend to start an institution or institutions on their own account, or whether they want other people to start and then they would recognise them and give grants. I am particular about this question because I had tabled a resolution in the last session on the question that Government should themselves run an Ayurvedic institution as the Madras Government have done. Unfortunately, that resolution could not be reached. So, if the Honourable Minister were to make this point clear, my purpose will be served.

The Honourable Dr. M. D. D. GILDER: Sir, the point, as far as I can see, is quite clear. Certainly, Government will give all possible encouragement both to Ayurvedic and Unani institutions that may exist and to institutions that come forward in future. Of course, from the grant of Rs. 50,000 recurring and Rs. 50,000, non-recurring, Government cannot start an institution and maintain it on their own, but if there are people who would start it, Government would take them into consideration. In distributing the grant Government will take into consideration the efficiency of the institution, the necessities of the institution and the presence of other institutions. And if there are no other institutions in the same part of the country, Government will also have to consider that point.

Dr. G. S. MAHAJANI: Supposing no one comes forward to start an institution, then will Government run an institution?

The Honourable Dr. M. D. D. GILDER : Government will certainly consider that. I do not know whether that could be run from this grant, and in that case Government will probably come to you for a supplementary grant.

Appointment of Non-official Honorary Agricultural Agents.

The Honourable the PRESIDENT : Now we proceed to item No. 3.

Prof. SOHRAB R. DAVAR : Sir, with regard to these non-official agricultural agents, may I know what is the nature of their work ? They are going to be entirely honorary, and may I know what is the class from which you are going to recruit them ? How are you going to maintain them ? These three questions are absolutely necessary in the interest of efficiency.

The Honourable Mr. A. B. LATTHE : Sir, they are not paid officials and they may not be full-time workers. What is intended is to take a fairly well educated class of agriculturists, to take them to the central training centre and give them the necessary training in particular improvements to be effected in agriculture and then it is expected that they will go about in their own areas and teach people the new improvements in which they have been trained by the department. It will be a labour of love and they will do it as a spare-time work. While they will be under training—it will not be a very long course—they will be paid for their subsistence, and after they are trained, it is expected that while they are doing their own business, while they are looking after their own farms, they will also teach the new methods to their neighbours in their own villages and the neighbouring villages.

Prof. SOHRAB R. DAVAR : Is it in the contemplation of the Government that this scheme should be ultimately converted into a sort of an establishment of experts to teach agriculturists, because an honorary effort in this direction may not serve as an experiment to see how things are likely to work. I have always found that honorary efforts generally fail or are slack. I have seen it in more than one enterprise. Lakhs and lakhs of rupees were lost in one big enterprise because the bulk of the workers was honorary and every one acted as he liked. If this establishment, or organisation, or enterprise which was of a very big character, which I need not mention here, had been conducted by paid servants from whom work could be enforced, it would have certainly resulted in great gain of money. I have got this experience because I have closely worked with them. Therefore, I wish to know whether this honorary work is to be superseded in course of time and real experts brought in permanent service for teaching the agriculturists the improved methods.

The Honourable Mr. A. B. LATTHE : Sir, I do not entirely accept the view which my honourable friend takes about honorary workers. Just as he was speaking about the inefficiency of honorary workers, my colleague on my right

2-30 p.m.

[Mr. A. B. Latthe]

(Dr. Gilder) was telling me that the honorary surgeons who have been doing work in our hospitals have succeeded very splendidly—

Prof. SOHRAB R. DAVAR: Honorary surgeons make money by advertising themselves as honorary surgeons. They get patients by working in the hospitals. They do not do work without self-interest and the human interest is self-interest.

The Honourable Mr. A. B. LATTHE: I do not think we can carry on a debate in this way. I would say that even among the people who will be trained for this honorary work there will be men who will be conscientious and who will have a desire to benefit their own neighbours and give them the benefit of the knowledge that they gain while they are under training in a very sincere manner. But all the same I do not want to predict what may happen in the future. We have a certain paid staff in the Agricultural Department. It is their duty all the 12 months in the year to carry on propaganda for agricultural requirements. But in addition to this petty staff, we want to engage a certain number of people who are themselves engaged in agriculture and to train them in particular improvements, not in the whole science of agriculture, but just to bring them to the Government's model farm or to some farm like that and give those men training in particular improvements which the agricultural department thinks useful to the public and it is hoped that these people will give the advantage of their knowledge to their neighbours. Whether they will succeed or not is a matter for the future to decide. For the present, this is an experiment that we are making and we hope it will succeed.

Mr. B. N. KARANJIA (Bombay City, *cum* Bombay Suburban District): Sir, may I know from the Finance Minister whether they have in mind any scheme on the lines of Agricultural scheme in America? They ask these small-holders to combine themselves as if one unit and form themselves into a pool and afterwards the profits may be divided between them in proportion to their lands and large tractors and other agricultural implements may be used in the interests of agriculturists or some such means are also to be used for that purpose to improve the lot of the peasants. If that scheme is brought here and if these people are trained to cultivate their lands on these lines, I think it would be somewhat beneficial to our small-holders particularly.

The Honourable the PRESIDENT: Item No. 4.

Mr. B. N. KARANJIA: Sir, the Honourable Minister has not given a reply to my question.

The Honourable Mr. A. B. LATTHE: Sir, I waited because I thought it was no good my answering each individual member.

In reply to my honourable friend I might say that the scheme which he proposes does not come under that demand; so that discussion will

[Mr. A. B. Latthe]

not be relevant. But I might promise that the scheme of which my honourable friend was speaking might be considered as a separate matter altogether. It has nothing to do with this demand.

The Honourable the PRESIDENT : Now item No. 4. (*After a pause.*) Item No. 5. (*After a pause.*) Item No. 6.

Distribution of Improved seed to cultivators.

Mr. F. STONES (Presidency): Mr. President, Sir, I note this expenditure is called for and bestow upon it all the approval I can possibly give it.

I would like, however, to ask the Minister whether there is any idea for the compulsory distribution of a definite type of seed such as is given in Egypt, where definite areas are planted to one type of seed, under compulsion. There is a similar plan in California for the control and distribution of seed.

The Honourable Mr. A. B. LATTHE : What seeds ?

Mr. F. STONES : Cotton seeds. In Egypt it is compulsory to plant one type of seed only in a given area. In America they have the same compulsory scheme on a co-operative basis.

The Honourable Mr. A. B. LATTHE : I am afraid I could not answer, but I will try to invite the attention of the Honourable Minister for Agriculture to this issue and he may be able to take into consideration and might throw some light on this point himself. I am not able, at present, to give a reply.

An Honourable MEMBER : Is this seed going to be distributed free of charge ?

The Honourable Mr. A. B. LATTHE : I am sorry I cannot supply the information.

The Honourable the PRESIDENT : Item No. 7. (*After a pause.*) Item No. 8.

Improvements to Development Chawls.

*Dr. P. G. SOLANKI : While we are on this item No. 8 (*Demand No. 8*), Sir, on a point of information I would like to know whether the improvements or additions or alterations which will be made in the existing rooms in those chawls will, in preference, be given to people who are belonging to non-labouring classes. I understand that instead of one room tenements, there will be two or three room tenements and they are going to make alterations in such a way that it will be comfortable even for a clerk or a man of education who would like to go and stay in a comfortable tenement which would not cost him much rent. But there is a feeling in the minds of the labouring classes and others that these tenements, when they are improved, should be solely reserved for the labouring classes and none of the educated men from the clerical

*Speech not revised by the member.

[Dr. P. G. Solanki]

staff, however poor they may be, should be allowed to go there. I am quite sure that when these tenements undergo changes and I do understand also that Rao Bahadur Jagtap is to be in charge of the alterations and improvements in those chawls, he is the man to convert these chawls and the rooms into comfortable tenements which will be equally good and convenient for the educated classes and there may be applications from them—will the Government be inclined to give them a chance also and preference ?

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, there is one sentence in that item :

“ Social workers are being appointed to look after sanitary arrangements and have social propaganda to improve the habits of tenants.”

Is there any scheme by which the social workers are to be appointed ? Is there any standard fixed about their knowledge of sanitation, etc., because that term “ social workers ” is a vague term ?

Mr. B. N. KARANJIA (Bombay City cum Bombay Suburban District): Sir, may I know from the Finance Minister if out of 60 chawls 20 have been occupied and 40 remain vacant, can those chawls be used for other classes of people ? Suppose a syndicate or any institution comes forward to make certain alterations over and above those which Government are going to make and to let to an institution of non-labouring classes, and suppose also they make certain alterations and a lease of about 20 years may be entered upon of keeping these chawls with the object of giving facility and comfort to those who want to use these chawls, will that be agreed upon by Government ? You know there is a scheme, and supposing we take up 5 or 10 chawls and supposing they are kept there to suit their convenience, is it possible under the circumstances ? [*Interruption.*] Those chawls can be given to any community which wants it. Rent will be according to the scale fixed by Government and the particular body may make certain alterations at their own expense to suit that particular community.

The Honourable Mr. A. B. LATTHE: Sir, the idea of middle class or any other class of people being given the use of these chawls probably arose out of some discussion many months ago which took place with regard to the possible use of the Worli chawls. At one time some officers had the idea that, as the labouring classes would not occupy these chawls, they might be made fit for the lower middle class people, and I think one or two of those blocks of buildings at Worli were given to classes, I believe, who were a little higher than the actual labourers in the mills. But since the Government have taken up this question, it has been definitely decided that these chawls are meant for the working classes and, so long as it is possible, so long as the Government think it possible that these chawls will be occupied by the labouring classes, no other class will be allowed to make use of these chawls. Of course, the Government peons serving under the various Government offices also belong to the working classes. It is intended that they will be given two-room

[Mr. A. B. Latthe]

tenements and no class which is not an actual working class will be capable of being put in possession of these chawls on any conditions, until perhaps in future it becomes impossible for the labouring classes to be induced to go and stay there. For the present, the idea is to reserve these chawls for the labouring classes only.

Dr. P. G. SOLANKI: Supposing the chawls remain unoccupied?

The Honourable Mr. A. B. LATTHE: I think, after the improvements, the labouring classes will go and occupy these chawls.

With regard to the question which my honourable friend here (Mr. Deodhekar) put, all I can say is that the qualifications of the persons to be engaged for doing social work and sanitary work will be judged by people like my honourable colleague here (Dr. Gilder) who are themselves experts in those matters and I do not think that we can lay down any hard and fast rule. But every attempt will be made to secure qualified, and energetic and sincere people to work amongst the people who will be living in those chawls.

*Dr. P. G. SOLANKI: Sir, on one point I am not clear, and it is this. The Honourable the Finance Minister has told us that the chawls are meant primarily for the labouring classes. The labouring classes are scattered all over the city, and particularly the textile workers. They are in Colaba, Parel, and other places where the mills are located, and all the labouring classes will not go and stay in the Worli chawls, at great inconvenience and loss of time to them. Under these circumstances, some of the chawls are likely to remain vacant. Would it not be possible, under these circumstances, at least to keep aside two or three chawls for such lower middle class people who will be willing to go and stay there, while the remaining chawls may be handed over to the labouring classes and filled with them?

The Honourable the PRESIDENT: The honourable member has not followed the reply that has been given by the Finance Minister. As I understood him, what he says is that they do not expect any rooms to remain vacant. The question of giving them to the lower middle class may arise if after a lapse of time and after all efforts are made it is found that they cannot be filled by the labouring classes. Government do not therefore think of doing anything at present. They wish to do everything that they can for the labouring classes, make the chawls comfortable, so that the labouring classes may come in. If they fail in that, and if there are vacancies, then they can think of other schemes. That is what I think is the answer.

The Honourable Mr. A. B. LATTHE: You have interpreted me very correctly, Sir. My honourable friend has always been complaining about the encroachment on the rights of the poor people by the more educated and richer people.

Dr. P. G. SOLANKI : Not richer, but educated.

The Honourable Mr. A. B. LATTHE : I hope I shall not be interrupted in my arguments. What I was saying was that the middle class people are ready to come and occupy these chawls, and even if two or three blocks are given to them, I assure him that just as the depressed classes have been driven out of the villages, the middle class people will I think gradually drive the working classes out and themselves occupy these chawls, which will be very comfortable and which will be rented at very cheap rates. Government do not wish that any other class of people should be allowed to do anything of this kind, and every possible effort in the first instance will be made to induce the labouring classes to occupy these chawls. We have every hope that they will occupy them very fully. Of course, if we fail in all these efforts, then it is for the future to judge. I cannot say anything at the present moment about that.

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT : The House expects that the Government will announce tomorrow the business for this week, and, if possible, for the rest of the session.

The House then adjourned till 2 p.m., on Tuesday, the 29th March 1938.

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Tuesday, the 29th March 1938.

The Council re-assembled at the Council Hall, Bombay, on Tuesday, the 29th March 1938, at 2 p.m., the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 KARANJIA, Mr. B. N.
 KHAN, Khan Sahab A. A.
 MAHAJANI, Dr. G. S.
 MARWADI, Mr. P. S.
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 PATANKAR, Major Sardar BHIMRAO NAGOJIRAO
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
 VIRKAR, Mr. M. B.

The following Honourable Ministers were also present :

The Honourable Mr. A. B. LATTHE
 The Honourable Mr. K. M. MUNSHI
 The Honourable Mr. MORARJI R. DESAI
 The Honourable Mr. L. M. PATIL
 The Honourable Mr. M. Y. NURIE

GOVERNOR'S ASSENT TO ACT.

The Honourable the PRESIDENT : I have to inform the House that message has been received that His Excellency the Governor has been pleased to grant his Assent to the following Bill which was passed by the two Chambers of the Bombay Legislature during the last session, namely, Bombay Act No. VI of 1938—The Bombay Tobacco (Amendment) Act, 1938.

***SUPPLEMENTARY GRANTS.**

The Honourable the PRESIDENT : We have now got the supplementary grants and they comprise 41 items. Yesterday we* discussed the items one by one and the discussion took place as follows. An item was mentioned, the members discussed and the Minister in charge, if he was there, replied. As there was no Minister other than the Finance Minister, he replied on behalf of all. I understand that there is a feeling, with some of the members at least, that, if possible, there should be some difference in the procedure and, between the two rival considerations about the procedure to be followed, namely, that each item should be taken up for discussion and it should be replied by the Minister who is concerned, and the second that all these items should be discussed together like the budget and replied to, I have got to consider the best method of discussion on these items having regard to the convenience of the members as well as that of the Honourable Ministers in charge. The courses which have suggested themselves to me are (1) that the items may be taken up one by one and the Honourable Minister present may reply. I am aware of the fact that there is joint responsibility of Ministers and any Honourable Minister who is present will reply to the discussion or offer such explanation or information that he may have. The other course is not to follow the serial order, but to take up items as they appear against the names of the Ministers. Various items stand in the name of the Finance Minister or the Revenue Minister ; these items can be taken one by one and then discussed and the Honourable the Finance Minister will reply. I think the better course would be that the Honourable Ministers who are here will take up their items as stand against their names, initiate the discussion, the discussion can continue and they will then reply. I think it will also be to the convenience of every Honourable Minister that as soon as his items are over he can go. At the same time, if any of the Honourable Ministers, like the Honourable Dr. Gilder for instance, being engaged in the Assembly, will not be able to come, then he will either make it convenient to come or some other Honourable Minister or Parliamentary Secretary will take up his grant or give explanation and information to the best of his ability or get from him the information required. Therefore, I think today we will take up items as they appear against the names of Ministers and each of the Honourable Ministers who is present will initiate discussion

*Appendix 4.

[The President]

and the discussion will continue, and after those items are finished, he can go.

I am suggesting this to suit the convenience of the members, as well as the Honourable Ministers.

The Honourable Mr. A. B. LATTHE : Sir, I am entirely agreeable to the suggestion made by you.

The Honourable the PRESIDENT : Is there any other suggestion to be made ?

Professor SOHRAB R. DAVAR : It is very good, Sir, except that the Honourable Ministers who are taking up items, as you state, were also to initiate the debate and after replying and giving explanations on the points raised they depart. The suggestion that I made to you in writing would in that case be given effect to.

The Honourable the PRESIDENT : The only thing which I can say is that in the printed Supplementary Statement there are some explanations given. If the Honourable Minister has got more to say, he will say.

Professor SOHRAB R. DAVAR : We have read this, but we may not be asking questions.

The Honourable Mr. MORARJI R. DESAI : Sir, I have not been quite able to follow what the initiation means. After all, this is going to be a novel procedure different from the Lower House. There, nothing is said when the demand is made, but when the honourable members have had their say, the Minister concerned offers explanations. But how can we imagine and offer explanations ? As it is, for all the items, explanations have been given. If any honourable member wants to know anything more than that, it is up to him to ask the question and the Minister concerned will gladly furnish all the information.

Professor SOHRAB R. DAVAR : Sir, I may explain to the Honourable Minister, Mr. Desai, that the object I had in mind was this. According to my view, the budget procedure is to be followed and though the budget contains all the items, still the Honourable the Finance Minister always introduces it with his speech. If this is to be taken as a supplementary budget, according to the order followed and according strictly to the rule, it must be introduced and explanations given. Yesterday we had this experience. The Honourable Mr. Latthe was here. We asked him certain explanations which he could not give. He gave such explanations as he could. Then again, we put questions and thus a sort of running debate across the table took place. So I thought that if we were to cover it in the form of general discussion and then take item to item, perhaps, these statements would have been much better discussed.

The Honourable the PRESIDENT : What I feel is that there is an underlying assumption that the Ministers have to say something more than what they have said in the Assembly. It may be that they may have something more to say after they hear the discussion. If they have got to say, certainly they will say. If they do not say, the assumption will be that they have nothing more to say and the discussion will proceed and then they will reply.

The Honourable Mr. A. B. LATTHE : Sir, the whole misunderstanding on the part of the honourable member Professor Davar is that he seems to think that we are following here some procedure other than the procedure we are following in the other House, where the control of the House on finances is even greater than in this House. There, the demands have got to be voted upon. Still, as my honourable friend and colleague has just now explained, the House does not require the Minister to introduce their demands with any speech. Simply the demand is made and the discussion is started. There, of course, cut motions are moved or there may be a general discussion—

Professor SOHRAB R. DAVAR : Cut motions are different.

The Honourable Mr. A. B. LATTHE : I am entirely aware of the facts. What I am saying is that no introductory speeches are required even in the other House and there is no necessity of any departure here.

I place before the House for discussion, the following supplementary demands : Nos. 8, 9—

The Honourable the PRESIDENT : Are you putting all of them together or one by one ?

The Honourable Mr. A. B. LATTHE : I understood you to say that we put all the demands.

The Honourable the PRESIDENT : At a time you put only one item for discussion ; otherwise, the discussion will get confused. You put item No. 8 for discussion, and after the discussion is finished on that item you will take up No. 9 and then the discussion will be confined to that item only.

The Honourable Mr. A. B. LATTHE : I will follow the suggestion made by you. I place before the House the expenditure of Rs. 2,05,908 under 25, General Administration. I just now referred to item No. 8, that is a charged item, so it need not be placed before the House for discussion. I therefore place before the House the next item No. 9 under General Administration. If honourable members like, they might also discuss this item No. 8. *(After a pause.)* Very well then, the House might take item No. 8 for discussion. *(After a pause.)* I place item No. 9 under General Administration. *(After a pause.)* Item No. 20, Rs. 30,500, I place that before the House for discussion.

Dr. P. G. SOLANKI : Under this heading, Sir, the restoration to the original holders of lands confiscated in the civil disobedience movement is mentioned. Only I want to know this much from the Minister in charge whether all the lands are returned to the original holders by this time or whether there are still difficulties in the way of getting the remaining lands from the present holders of the land who are adamant in not giving back the land. If they are obstinate, I should say, in returning the lands, what steps Government propose to take in the matter and up to what extent Government would be prepared to go to satisfy the demands of such landholders who are prepared to part with the land which they had bought during the movement.

The Honourable Mr. A. B. LATTHE : All the lands have not yet been restored. A few, I think, have been restored. Negotiations are going on in respect of the other lands. It would be impossible for me to say how much price the Government may or may not pay. That is a matter for negotiation and discussion between the present holders and the Government. It would be impossible and would not even be in public interest to make any statement with regard to the probable price which the Government may pay.

Dr. P. G. SOLANKI : Sir, is there any time-limit laid down because the person in possession may not yield to the persuasion of the Government ? Or let us understand whether the Government is in right earnest to discharge their obligations during particular limit of time.

The Honourable Mr. MORARJI R. DESAI : The honourable member may have no doubt on that account, Sir. I do not know what gave him that doubt, but, after all, these questions are such that it would not be desirable to put any exact time-limit on it. But I may say that we want to do it as soon as we can and I think in the matter of prices you can certainly depend upon Government on not giving any exorbitant prices. That much is certain.

Mr. B. N. KARANJIA : Sir, may I know from the Revenue Minister whether any betterment charges have to be paid for the improvement of those lands which were sold in the civil disobedience movement ? Supposing a land is bought at that time and improvements are made, would Government be prepared to give the purchase price only or the original price *plus* the betterment charges ?

The Honourable Mr. MORARJI R. DESAI : Sir, even this is a matter of detail, but I can say generally that if anybody has improved the land and it is apparent today, then the present value of improvement will certainly be given. But if somebody says that he has made an improvement of one lakh and nothing is visible, then nothing will be given. I hope the honourable member will agree with me.

Mr. N. D. DEODHEKAR : Are some lands already secured and, if so, does the Government intend to publish the list ?

The Honourable Mr. A. B. LATTHE : The list will be published only when the whole thing is finished.

Mr. N. D. DEODHEKAR : You are not going to issue any interim list ?

The Honourable Mr. A. B. LATTHE : No, Sir, I place before the House item No. 23 "Payment of Commuted Value of Pensions".

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The next item is No. 24 "Payment to Retrenched Personnel".

The next item is No. 25 "Permanent debt".

Then I place before the House items Nos. 26, 27 and 28. No. 26 is "Loans from the Central Government"; No. 27 is "State Provident Funds" and No. 28 is "Famine Relief Fund".

I shall then place before the House item No. 30 "Advances Payable" for discussion.

Then I place before the House items Nos. 31 to 41.

Dr. P. G. SOLANKI : May I know, Sir, why there are notes for other items and not for item No. 31 ? They ought to have been given.

The Honourable Mr. A. B. LATTHE : As the heading of item No. 31 shows, it is not really an expenditure. Certain permanent advances are made to permanent officers and they have to account for the expenditure which they incur, and that is afterwards brought into the account books regularly.

Dr. P. G. SOLANKI : It was rather unusual for the explanation regarding this item to be missing, and that is why I was surprised. It is all right now.

The Honourable Mr. K. M. MUNSHI : Sir, I place before the House item No. 6 "Charges on account of Motor Vehicles Tax".

Mr. B. N. KARANJIA : I wanted to know from the Honourable the Home Minister whether the charges cover the exact amount derived from the revenue from motor vehicles, or the charges exceed the revenues or the revenues exceed the expenditure ?

The Honourable Mr. K. M. MUNSHI : Sir, the figures themselves show that this is the estimated receipt. If you look at page 11, you will find it stated there that the receipts under the Act during the year are estimated at Rs. 37,79,000 against a budget estimate of Rs. 34,00,000.

Mr. B. N. KARANJIA : There is an increase of expenditure of Rs. 3,00,000 ?

The Honourable Mr. K. M. MUNSHI : No, no. It is the other way about.

The Honourable Mr. A. B. LATTHE : The first figure is that of the estimated revenue. That is what we expected to get from the motor vehicles taxation,—Rs. 34,00,000. Instead of that we got Rs. 37,00,000, that is 3 lakhs more, because there were more motor vehicles in the Presidency and we collected more taxes. There is no question of expenditure. We collected more money from motor taxation than we estimated for in the budget.

Mr. B. N. KARANJIA : Very well, Sir. But here are charges on account of Motor Vehicles Taxation Act. I wanted to convince myself as to the point whether the revenue derived from this item is more or the expenditure is more, or both ends meet.

The Honourable Mr. A. B. LATTHE : Certainly, the revenue is more.

Mr. B. N. KARANJIA : I understand that it is provided in the Act that there should be no excess in revenue.

The Honourable Mr. A. B. LATTHE : The Act never said that the revenue should not be more than the expenditure for collecting the revenue. What the Act said was that the revenue was to be applied for certain definite purposes. One of the purposes was to give grants to the various local bodies, and the remaining grant was to be placed in what is called a Provincial Road Fund. That is what the Act said, and that is being done. When we say that the revenue is greater than the cost of collection, that does not mean that the money was applied for any other purpose.

The Honourable Mr. K. M. MUNSHI : I place demand No. 10 "Administration of Justice".

Mr. N. D. DEODHEKAR : Sir, we find that there is an item of Rs. 1,35,000 under refunds. I would like to know whether the details would be provided to us as to what amount is returned and to what persons. That is one thing.

The Honourable Mr. K. M. MUNSHI : Certainly. Government will have no objection to placing the details of the expenditure of this Rs. 1,35,000 on the table.

Mr. N. D. DEODHEKAR : I want to know whether any return of the forfeited amount is made to the Free Press.

The Honourable Mr. K. M. MUNSHI : No, because Government have returned only the securities which have not been forfeited. Those amounts which have been forfeited already by the old Government have not been returned. This is the policy of Government.

The Honourable Mr. MORARJI R. DESAI : This is a very strange method of proceeding. The honourable member ought to raise points one after another in the same speech, and after all the points are placed before the House the Minister in charge may reply.

Mr. N. D. DEODHEKAR : I just asked at the commencement the Honourable Minister in charge as to whether he would reply point by point, or I should state all the points on which I wanted information. There is only one more point left now.

The Honourable the PRESIDENT : If honourable members want information, then they are certainly entitled to ask for it. If the item does not meet with their approval, they can say so. If they want information and if it is within the knowledge of the Honourable Minister, he will give it. Cross-examination should not be conducted and supplementary questions should not be put. If any explanation is wanted, the Minister will give it.

Mr. N. D. DEODHEKAR : I would like to make it clear that it is not my intention to cross-examine the Minister. That is why I asked whether he would like to hear all the three points first and then reply. He preferred answering point by point. There is now only one more point.

In the case of the *satyagraha* in connection with the Sonya Maruti temple, some persons who had been fined by the lower court, on appeal had their fines remitted by the higher court. But some of the persons who had been fined did not go in appeal. Is it the intention of Government, if these persons make an application to them, to refund the fines which they have paid ? I think Government ought to.

The Honourable the PRESIDENT : The Honourable Minister need not reply till other members who want to speak have spoken.

The Honourable Mr. K. M. MUNSHI : As no other honourable member proposes to say anything, I may reply to the point raised : the fines which have already been recovered are not to be refunded.

*Dr. P. G. SOLANKI : Sir, in the note on the item under the heading "Presidency Magistrates' Courts", in the last sentence it is mentioned that the expenditure is due to the payment of increased rent for the Police Court at Dadar. For the last many years there was a question of having a special building at the expense of the Government for the Dadar court. I want to know how far Government have made up their mind to have a building of their own for the court at Dadar instead of having a rented building. Can the Honourable Minister enlighten me on this question ?

The Honourable Mr. K. M. MUNSHI : So far, I do not know of any scheme under the consideration of Government with regard to a permanent building for the Dadar court. If there is any scheme of that kind, at least it has not been brought before the present Government.

I place before the House item No. 11 under "Jails and Convict Settlements".

I then place before the House item No. 12 under the head "Police".

The Honourable Mr. MORARJI R. DESAI : Sir, I place before the House item No. 1 for discussion. The explanation is given on page 9.

[Mr. Morarji R. Desai]

I place item No. 3 for discussion. The explanation is on page 10.

I place item No. 4 for discussion, and the explanation for which also will be found on page 10.

I place item No. 5 for discussion. The explanation with regard to the item will be found on page 11.

I place before the House item No. 17. The explanation will be found on page 30.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District) : I want to have some information on the item. There is a famine fund in our Presidency. Is that fund kept entirely intact by not spending anything out of it ? I understand there have been famines in Ahmednagar and other districts. Why is not any amount spent from the famine fund ? Has it been kept intact ?

The Honourable Mr. MORARJI R. DESAI : Sir, if my honourable friend had looked at the explanation which is given with regard to item No. 17 on page 30, he would have seen the explanation. There is a Famine Fund Act which is passed by the local Legislature, under which it is necessary to maintain the famine fund at Rs. 63 lakhs. It is not that money is not to be spent from that fund. Whenever it is necessary to spend money out of it, it may be spent, but next year you must pay back the amount to that fund, so that it may be kept at a particular limit. This is absolutely necessary, in order that in times of stringency you may not be in want of money and it may not be difficult for you to provide money for famine relief. That is the main reason for maintaining a permanent fund like this. I believe this item was discussed at great length in the lower House, but I suppose I am not to refer to it in this House. Honourable members of this House perhaps did not take notice of it. Otherwise, it would have been very easily known.

Mr. B. N. KARANJIA : Sir, am I to understand that these Rs. 63 lakhs are to be kept intact and not a pie out of it is to be spent ?

The Honourable Mr. MORARJI R. DESAI : Not always.

Mr. B. N. KARANJIA : Then can you spend out of that ?

The Honourable Mr. MORARJI R. DESAI : Yes, I may spend even all the 63 lakhs this year, but I have got to make that good next year. They are not to be made good all in one year, but under the Act instalments of Rs. 10 lakhs have to be put in every year. If it becomes necessary—God forbid such contingency ever arises—we can spend all the 63 lakhs in one year and pay back by instalments in 7 years.

The Honourable Mr. L. M. PATIL : Sir, I place before the House for discussion item No. 18. The explanation with regard to this item is given on page 31.

Mr. B. N. KARANJIA : May I know if all the stationery that is purchased is of Indian make or foreign make ?

The Honourable Mr. L. M. PATIL : Since we took office, we are buying Indian made goods as far as possible.

Now, I place before the House item No. 19 for discussion. The explanation is given on page 31.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : Sir, with regard to this item, sub-item No. 7, the explanation given is that Government decided that important provincial buildings should be illuminated on the occasion of the Coronation of Their Majesties, as they were on the occasion of the Silver Jubilee. We do not know why the Government decided to do this. After all, when a foreign country rules us, the Coronation is not a matter of festivity to us at all. I do not see why the Honourable Minister in charge felt it necessary to remind us of our bondage. The King of the country that rules over us is not an independent agent. He helps the British Imperialism for the time being and though the Government is carried on in his name, it is a matter of perfect indifference to us, whether we are governed in the name of King Log or King Stork. I therefore request the Honourable Minister in charge to kindly enlighten us as to the circumstances under which this expenditure was incurred.

Mr. R. G. PRADHAN : Sir, I may tell my honourable friend on the left that the explanation which he has asked for is that the illuminations were held on the 12th and 13th of May 1937 when the present Government was not in power, that the expenditure was incurred by the predecessor of the present Government. If this Government had been in power, it would not have incurred this expenditure.

*Dr. P. G. SOLANKI : Sir, I am rather surprised to see the honourable member Mr. Shah raising a point on this particular item No. 7 regarding the illumination of Provincial buildings. It is human nature that whenever there are festive occasions, or whenever there are unusual occasions, people express their joy by illuminations and spending money in certain other directions which they think best to express their joy. Similar is the instance of the Haripura Congress, that great national gathering of rejoicings, where the Government spent for three days nearly Rs. 7,50,000, though Government may say that they recovered that money out of that big gathering by way of ticket-money and all that. Sir, we belong to the sub-continent of India and the mentality of the Indians has not changed thoroughly. They are loyal to their King and their devotion to their King is foremost and uppermost in their minds. As we have got our devotion and loyalty towards Mahatma Gandhi, in the same way we have loyalty and devotion towards our King.

Mr. SHANTILAL H. SHAH : No.

Dr. P. G. SOLANKI : You may not have, but we have. Sir, as has been rightly said by my honourable friend Mr. Pradhan, this expenditure was made during the time of the past Government. So, it is an incident of the past. All the same, the attitude taken up by one of the members of this House was rather not desirable. It is a matter on which we should be more generous and I do wish that, as we owe allegiance and loyalty to the King, as we do revere the leaders of the Indian people, we join hands and be generous enough and not make much of these little things. It is a matter of the past Government ; the expenditure is already made and gone. I have nothing more to say, but it was not rather desirable and pleasant that one honourable member should have spoken like this on this subject.

The Honourable Mr. L. M. PATIL : Sir, the expenditure under discussion was incurred not by the present Ministry but by the interim Ministry. So, I am not in a position to say whether they were right or wrong to spend this money on the Coronation of their Majesties. It is not for me to say what attitude would have been taken by the present Ministry on such an occasion. It is needless and out of place to express any views in this matter at this stage.

The Honourable Mr. M. Y. NURIE : Sir, I place item No. 7 for the discussion of the House.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District) : Sir, I find that a committee has been appointed by the Government to examine the general irrigation policy of the Government and an expenditure of Rs. 6,080 has been incurred. Will the Honourable Minister kindly enlighten us as to what is in the mind of the Government in connection with this inquiry ? Will he tell us if there are any points of references which are given to the committee and which the committee is investigating ? All this information would enable us to understand how and why this expenditure is justified. In the absence of that I take it for granted that this expenditure is incurred with the idea of seeing how the present irrigation schemes could be improved upon and made to pay, and how much wastage is going on. I understand that the expenditure is 50 per cent. of the revenue and I would like to know whether that could not be saved or considerably retrenched and also whether the committee is investigating the possibilities of the extension of irrigation with a view to see that the agricultural population, which forms the bulk of the population of this country, is helped to improve their position, to produce more out of their lands than they have been able to do and such other objectives. If this is not so, I submit that it would be wise and desirable for the Government not to waste time on this question, but to formulate a plan at an early date and place it before both the Houses and also, through the Director of Information, before the country to enable the country to see how far they have progressed. Unfortunately, this country is steeped in poverty and the bulk of our population depends on agriculture which is 100 and 150 years behind the times, compared to any modern country, and I trust

[Professor Sohrab R. Davar]

that this Government, which has shown so great solicitation and concern for the masses, the bulk of which is composed of the agricultural population, tackles the question rightly. I need hardly assert that. I have no doubt that this problem is before them because it is the very first duty on their shoulders. I say it is the first duty of the Government to see that the standard of life of the agricultural people is raised, that the revenue from the land is improved and that everything possible is done to increase the prosperity of this country through agricultural regeneration rather than dissipate their resources on other less important objectives. They may be important, but I say they are less important.

Sir, I am asked to discuss this item without hearing from the other side to begin with, and because of that I had unfortunately to go into a sort of a long discussion for which the honourable members will pardon me. I submit that it would be interesting for us to know exactly what are the terms of reference to this committee. Is it only formulated with a view to find out the present irrigation policy or the past irrigation policy of the Government which is no longer in power? I should like to know if the Government have got any vision or idea about what they are going to do in the future. I should indeed be much obliged and I hope to hear from our friends Opposite the details of the schemes. I trust they will be frankly given to us.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District):

3-00 p.m.

Mr. President, Sir, I entirely agree with the honourable member Professor Davar in what he has said and I will add one word more. That is, may I know from the Minister of Public Works whether, in the terms of reference, there is any enquiry to be made as regards the use of tail water? There are so many hydraulic schemes running now in the Presidency and the tail water is absolutely wasted to such an extent that if any scheme is formulated to make use of that tail water, I think, for irrigation purposes in the villages, it would be a very good thing and the agriculturists will be benefited to a large extent.

Professor Davar has pointed out that we do not know what is going on and what it is doing. That is not the point. I want to get the information as to whether there is any scheme to be formulated for the purpose I pointed out. In the new agreements which are to be made with the hydraulic schemes, I think, there should be one clause added to allow the use of the tail water for irrigation purposes.

*Dr. P. G. SOLANKI : Sir, under item No. 7, there are three items, 1, 2 and 3, which relate to the Extensions and Improvements to Irrigation Works, Miscellaneous expenditure and to cover the expenditure incurred on scarcity works, like improvements of tanks in Panch Mahals and other places. Sir, after going through the notes I have come to the conclusion that the major portion of the expenditure on those three

*Speech not revised, by the member.

[Dr. P. G. Solanki]

heads which are there is to be made in the Deccan. I do not grudge that. They do stand in need of help and that too timely help, but scarcity in places like Sholapur and Ahmednagar is a matter of annual occurrence and for that Government is bound to look to the comforts and the needs of the people there. But coming to the province of Gujarat, it has been said that Gujarat, though it is the garden of India, yet it also sometimes suffers from scarcity and particularly in villages where there are tanks and where people have to depend upon the collection of water in the tanks and upon the capacity of the tanks in different villages depend the population of the village itself. Some villages have got big tanks, some villages have small tanks. The result is that during the paddy season, when the rains are not profuse or in sufficient quantity, the water in the tanks is taken away by the cultivators. The condition of the present tanks in villages and particularly the taluka to which I belong is that they have been filled up by earth. The tanks which were 30 or 40 years before deep enough to hold water throughout the year cannot hold water for the supply of the village people even for a month. I humbly submit to the Minister in charge that he would be pleased to tell us what special measures he is going to take to deepen such tanks in such villages where it is very necessary that such tanks should be deepened. Though this may not be a pressing question in the minds of the Cabinet and the Minister in charge, because they always are hard-pressed for those districts where scarcity is uppermost, here, in certain villages people are always handicapped every year and I think it is also one of the duties of the Government to go to their aid and to return any way the *Hinayat* money which they take every year. I think they are entitled to get that compensation by way of improvements to the tanks and the deepening of the tanks for these villages which pay their *Hinayat* money.

Dr. G. S. MAHAJANI (Poona *cum* Satara): Sir, so many questions have been asked of the Honourable Minister and I shall add one more. A committee has been appointed of officials and non-officials. My question is: why is it that the terms of reference and the questionnaire were not published in the Press?

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat): Sir, as to the committee on irrigation, if my recollection is not remiss, a press note was issued giving the terms of reference and the names of the members of the Committee. I am sure honourable members received it. The questionnaire would be a matter for the committee. As far as Government were concerned, they announced the committee and the terms of reference. I have received the press note.

Then, a reference was made to the irrigation policy as regards Gujarat and Maharashtra. I do not feel that, as far as the scarcity works are concerned, a distinction could be made unless you say that there is a scarcity in a particular province which was not attended to. If there is scarcity in Panch Mahals and Bijapur, certainly help would be given

[Mr. Shantilal H. Shah]

there. Scarcity cannot be decided by province, but by necessity. The matter of scarcity, therefore, should not be made a matter of provincial jealousies.

The Honourable Mr. M. Y. NURIE : Sir, it is really surprising that the honourable members and especially the honourable member who has got to do with the economic side of this province did not see the communicate concerning the appointment of the committee and points of reference on this subject. I may be excused for saying so, because it is quite possible that it might not have fallen in his hands. A communicate was issued by this Government which gave out the points of reference which are under enquiry of this committee and on which the findings of this committee would be given. I have just sent for the communicate and it will be put into the hands of members if they wish to see it again.

Professor SOHRAB R. DAVAR : I am sorry I have not seen the communicate.

The Honourable Mr. M. Y. NURIE : In general, I can just tell the House that the whole system of irrigation has to be considered by this committee and, as to the reason why it is necessary, because a point has been raised that it would be a wastage of money, I may say—

Professor SOHRAB R. DAVAR : I never said so.

The Honourable Mr. M. Y. NURIE : It has been said and therefore it may be replied—*(Interruption.)*

The Honourable the PRESIDENT : I do not like interruptions when the Minister is speaking. He may be allowed to speak uninterruptedly.

The Honourable Mr. M. Y. NURIE : Sir, as perhaps the House is aware, 10 crores of rupees have been spent in the Deccan on irrigation works and the Government find that the returns which we get are not sufficient looking to the amounts which have been spent. Not only that, but the cultivators were not making the use of water. We had water, people required water, but somehow they did not take water. These were the important questions and after enquiry I found that there was some harassment also. The rules which are in existence are such that the cultivators feel much harassed and, therefore, in certain cases, they liked to go without taking water. Then there was a general clamour that the prices of the produce had gone down and the rates were too high which were fixed at a time when perhaps the produce was sold in the market at higher prices. Then there was the difficulty about the distribution of water. That also was a very difficult question for the Government to decide without having a considered opinion, and looking to all these facts, the Government decided to appoint a committee of all the three interests, that is, Government, factory area people and the cultivators, and at the head of that committee, the Government could

[Mr. M. Y. Nurie]

secure the services of one who was connected with this irrigation policy in this province before he went away from here, I mean Sir M. Visvesvaraya, and I am sure that he commands such respect in the whole of India in his profession that he is perhaps the best man to preside over this committee; and this committee is now going through all these questions. They have tried to secure assistance from every party which represents the cultivators and also the sugar factory people who are interested in sugar industry. They have not limited their enquiry into Deccan areas, they have also gone beyond Deccan area, they went to Gujarat and tried to know their grievances also. Now, as I have said, the whole policy of Irrigation is under consideration. So is the policy of compulsory irrigation and fixing rates. Then there is the question of block system; whether it should be retained or done away with. Then for factory area there are certain rules; whether they should be kept up or changes brought in. They have also to advise the Government as to whether these factories should be encouraged or we should increase any more burdens or we should try to give cultivators more facilities. They have to advise on distribution of water, whether it should be left to the people on every distributory. The most important thing is to bring about a certain scheme which would encourage the cultivators to use water which we have got in plenty. I think, if, on all these subjects, the committee comes to certain decisions and if the Government find them more helpful for the people, then they will be accepted. This Government has got one more scheme, about the findings of the Agricultural Department which have not yet been brought to the knowledge of the people. They have decided that all these methods which the Agricultural Department have found to be useful for agriculture and unfortunately never brought to the notice of the cultivators be brought to the knowledge of the cultivators. They are considering ways and means by which the knowledge of the Agricultural Department is made available for the agriculturists. The whole object is to make the best use of the water which we have and the cultivator be brought to realise that the water is for his use and that he should make use of it for the best purpose.

I may just draw the attention of the House that on 30th December 1937 this communique was issued :

" In pursuance of their intention of examining the whole question of irrigation policy and allied matters announced in the Press Note, dated 23rd November 1937, Government have appointed a Committee with the following terms of reference :—

(1) What should the general irrigation policy of Government be as regards the supply of water to owner irrigators, tenant farmers and industrialised undertakings, such as sugar factories, and also in regard to the supply of water for non-agricultural purposes, e.g., water supplied to Municipalities, Mills, Railways, etc. ?

(2) If the present policy is suitable, is any revision of the water rates and canal rules necessary, taking into consideration the cost of the water and the value of the different crops ?

(3) If any other policy is recommended, what should be the basis of the assessment on account of the irrigation facility provided ?

(4) What steps should be taken in the case of lands and villages damaged by waters logging ? "

[Mr. M. Y. Nurie]

This covers, as I said, in general, the whole field of irrigation policy which is at present in operation and which, unfortunately, has not done much good to the cultivators of the Presidency and the Government has been suffering a loss of at least about 21 lakhs of rupees every year in paying interest.

Professor SOHRAB R. DAVAR : So, I take it that the present irrigation position is to be reviewed, to see how it can be best used and how it can be best improved, and there is no scheme for the expansion of the irrigation system which has been referred to this committee.

The Honourable Mr. M. Y. NURIE : I may just inform the House that if the committee think that the present supply of water is not sufficient for any scheme which they may propose, certainly they would recommend that Government should undertake in this area or in any other areas more works to add to the supply of water. But much depends on their report. In regard to those parts where there are no irrigation works, Government are considering whether any work should be taken in hand for the general economic improvement of the people. One irrigation scheme is already under revision at the hands of Government, which would be useful for Kanara. The Meshva scheme for Gujarat is also under revision. I think an intimation about these was given by the Finance Minister in his speech presenting the budget.

A point has been made about the use of the tail water of hydro-electric schemes. I may inform the House that Government are considering the use of these tail waters and trying to make people electric-minded. I may just inform the House that if the schemes are ready they will be soon put before the House ; one will be on the Bhatghar dam and the other on Bhandardara dam. The estimates are ready and—

Mr. B. N. KARANJIA : Campoli also ?

The Honourable Mr. M. Y. NURIE : It is not yet ready. As I said, Government are considering all the e schemes, but two of them are almost ready and very soon Government will be putting them before the House.

As has been pointed out by the honourable member Dr. Solanki, the main irrigation works are in the Deccan. But we must not forget the geographical position of the Deccan. It is a fact that on the ghauts you are having hundreds of inches of rain which goes to waste, and we cannot make use of it there, because the soil is very poor. But as soon as we go away from the ghauts, the soil is good, but there is scarcity of water. Therefore, though these irrigation works are not possibly productive in the sense in which we would like them to be, they are giving protection to these areas against famine. That is naturally how in those parts irrigation works were started. With regard to the question whether in certain parts of Gujarat irrigation works

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would be profitable, the Government are considering the question ; but in the parts from which my honourable friend comes, it is not possible to have irrigation on a large scale. The soil there is black. Therefore, there is every possibility of waterlogging, and the soil will go worse. And, therefore, this Government are considering a scheme, if possible, for irrigation by tube wells.

With regard to the tanks, about which my honourable friend has made a complaint here, I may tell him that if he will read the speech of the Finance Minister a little more carefully, he will find that a provision has been made in the budget for cleaning the tanks, and it has been made very clear that the Rs. 7 lakhs of income which Government derive from these tanks will in future be used for the purpose of cleaning and repairing the tanks and supplying other tanks. Therefore, Government are certainly doing in that respect what is necessary, and Government have decided not to use the money which we get as assessment on these tanks for other purposes. I hope these remarks will satisfy honourable members. I have tried to meet the points raised and, if any further question is asked, I shall certainly try to satisfy the House.

Dr. P. G. SOLANKI : On a point of personal explanation, Sir. I never meant that nothing should be spent for the Deccan. I only said that the small repairs for the tanks and other things which are required should not be omitted.

The Honourable Mr. M. Y. NURIE : Sir, I place item No. 16 for discussion before the House.

Mr. N. D. DEODHEKAR : In this connection, Sir, under sub-head (6) we find that there is a token demand of Rs. 10. The expenditure under that head is something like Rs. 73,000 and odd for roads to Congress Vithalnagar. In that connection, I would like to observe that we do not approve of the expenditure. I am not going into the details of the demerits, because I know that Government are impatient of any criticism on that point, because it touches Congress, and Government belong to the Congress. Yesterday, in the Lower Chamber we heard two of the Ministers, just while they were answering the points raised by the Opposition, throw out warnings threatening the Opposition that, if teased, no heed would be paid to the Opposition—

The Honourable the PRESIDENT : You need not bring in a discussion which took place in the other House. You have got to carry on the discussion on the item as it is, as if there has been no discussion on it in the other House.

Mr. N. D. DEODHEKAR : I respect this suggestion, but as we are having this as a part of the general budget item—

The Honourable the PRESIDENT : You can discuss the item on its merits.

Mr. N. D. DEODHEKAR : Government because they have a majority behind their back can incur this sort of expenditure and not be afraid of any Opposition. That seems to be the attitude of the Government, and in this connection just as the Opposition has to hear the warnings from the Ministers that they are proud because the electors have placed their confidence in them and returned the Congress party in a majority, we also shall have to make a suggestion to the Government party that they shall also have to justify the confidence that is placed by the electors in them, to be worthy of that confidence. The same thing might have been said by the Sind Ministry or the Central Provinces Ministers a week or two back, but they cannot say the same thing today. This sort of majority behind the Government should not make Government stifle Opposition, because if that attitude is taken by Government, or Government feel confident that with the majority behind their back they can stifle Opposition and make it lose interest in doing its duty of offering criticism on affairs or policy of Government, then there will be none in this House to hold up a mirror before Government to show them what ugly things they are doing. They have only to remember that in eight months of their career, they have got to their credit, the Lokashakti Circular, the use or misuse of the application of section 401 of the Criminal Procedure Code, this expenditure, and the appointment of guardians of Worli chawls residents is discussed in papers—

The Honourable the PRESIDENT : I am sorry I have to interrupt the honourable member. So far I have not heard any remarks on the item under discussion, namely, the construction of the road. The honourable member had better criticise that item. In the course of the discussion of that item, if he thinks it is useless expenditure or something like that, then he can bring in those remarks. At present it appears as if the criticism is not about the Haripura road, but the general policy of the Ministry.

Mr. N. D. DEODHEKAR : Our difficulty is that only the item without any introductory remarks is put before us, and that was what made my honourable friend Professor Davar request that there should be some opening remarks, so that we can go on. Unfortunately, there are no such remarks. But we have had the opportunity of hearing the debate in the lower House, and some criticism has appeared also in the press on that point. That is a public property and I think it can be commented upon. Otherwise, we have got only this bare item before us,—

The Honourable the PRESIDENT : I do not wish to have in this House a continuation of the debate as from the point that might have been left in the other House. The item is before the House for discussion, and it should be discussed as if no other discussion had taken place anywhere else. Whatever the honourable member wishes to say on the item he can say, and the Honourable Minister will reply.

Mr. N. D. DEODHEKAR : Sir, I respectfully bring to your notice that we are deprived of the opportunity of hearing what the Minister has to say and no opportunity is given us to speak after the Minister has spoken, and to have our say on it. Thus handicapped, I can only express our strong disapproval of the expenditure.

The Honourable Mr. M. Y. NURIE : I can only say that with regard to item No. 16, full notes are given on page 23 and succeeding pages. It shows how much and for what object money has been spent by Government. I think the House is going to discuss it on its own merits, without considering what happened in the other House—whether it is excessive, whether it should not have been spent, whether it was necessary, and so on.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District) : Sir, the item of large expenditure at Haripura has been the bone of contention in the lower House. I say that particularly because the Honourable Minister just now told us to the effect that "the speeches in the lower House must have been read by you". Before I speak on this question, I will say to my honourable friends opposite "For goodness' sake do not think that I am criticising this expenditure for criticism's sake, or because I have some grudge against the Government and am going to have that stick used against them". Far from it. I have considered this question; I have also heard both sides of the question. I have already heard what the Opposition had to say in the matter. [*An Honourable Member* : Where did you hear ?] It does not matter; I have heard, and I might say that the argument of the Government, as I understand it, happens to be to the effect that this expenditure was justified, that they had every right to incur it in the interests of the public. This argument has failed to convince me. This is at the best a party expenditure. The Congress may be the Government today, but strictly speaking—I am speaking on principles of democracy, I am not concerned with anything else,—on democratic principles it is a party Government. At present it is in power, and any expenditure that is to be incurred for the furtherance of the objects of a party must be met out of the party funds and must not be drawn upon from the public exchequer. I am saying that as a student of constitutional law and of constitutional practice. If you were to say that this is not party expenditure, I am afraid it will be very difficult to convince those who have studied constitutional usages and practices. It is purely a party expenditure. The party in power or the Congress had decided for its own party reasons, which I admit were very good, to hold the party sessions at Haripura, in order to bring perhaps the masses and the agricultural population there and to make them understand their party viewpoint. I am quite in agreement with it. They were quite within their rights to do so as a party, and I think that was the correct thing to do, with a view to carry out their own party programme, which was from their standard a national programme, but which was not national from the points of view of others. This large expenditure of Rs. 70,000 to Rs. 80,000 has been undoubtedly incurred for purposes

[Professor Sohrab R. Davar]

which are purely party objectives. Therefore, when my friends on the opposite side are criticised by friends on this side, I hope they will not be impatient or angry on that account. I ask them really to consider

3-30 p.m. this point from the viewpoint that I have put before them for the future. What has been done is done. Today you are in power ; tomorrow somebody else will be in power and they will incur an expenditure perhaps ten times of what you have done and will try to justify it by saying that their predecessors had done the same thing. That is my fear.

Then, Sir, this expenditure was justified on the ground of public convenience, and it was said that the large crowd which had been there would have been inconvenienced and would have suffered. Supposing my Muhammadan friends on the right side who have got a good following want to hold a meeting of their own—I don't mean a meeting of the Muslim League—only for religious purposes, and lakhs and lakhs of Muhammadans are going to attend the same and it is held at an out-of-the way place, are Government going to spend Rs. 5 or 10 lakhs for their convenience ? Would they be justified in doing that ? This problem has to be considered from all points of view and I submit that I always felt that this was an expenditure which should have been saved. We have quarrelled with the old Government jointly, hand in hand, when they spent unnecessarily amounts on *tamashas* like the Delhi Durbar, or the Coronation or the illumination of Government buildings. We have said that this is a tremendous wastage of our money which our poor country cannot afford. They have on the contrary said "No. This money is needed in public interest to show the greatness of our justice, of our administration and so on". So, they also gave out reasons which appeared to us plausible in those days, but still we said "No. This poor country cannot afford this waste. This amount should have been utilised for saving so many lives. It should have been utilised in a proper way". That is how we opposed.

I submit that we can take up the same ground, but I do not want to do that. I simply request my honourable friends on the opposite side that this sort of expenditure could well have been made out of their own pockets. The Indian National Congress is a very powerful organisation which this country possesses and of which all Indians can well be proud. I say that purposely and advisedly. They have enormous funds also and they could have well utilised those funds. What is this Rs. 80,000 ? They could have got Rs. 80,000 from one merchant from our bazaar in one cheque. But the point is of principle. Here the money is spent out of public funds and many friends of mine who are nationally minded thought that this was a mistake. I do not say all this with a view to criticise you and I hope you will not take it amiss, but I say this with a view that you may consider this for the future. What has been done is already done.

Sir CURRIMBHOY EBRAHIM (Bombay City *cum* Bombay Suburban District) : Sir, I would like to know from the Honourable Minister whether

[Sir Currimbhoy Ebrahim]

the money which the Government have spent on the roads at the Haripura Congress, would have been spent even if the Congress Session had not been held at Haripura and had been held at some other place, in some other Province. Would that expenditure have been made then? This is the only point I wish to know from the Honourable Minister.

Khan Saheb A. A. KHAN : Sir, may I know from the Honourable Minister the total mileage of road surface that is brought under repairs?

*Dr. P. G. SOLANKI : Sir, this is an item on which I am sorry I cannot see eye to eye with my colleagues on this side because we have never given any serious attention or consideration to this item. Now, however, as it has cropped up and two preceding speakers have spoken and given out their ideas, I think it is my duty to speak out my idea. One thing which I do feel the Congress Government should have done was to take us into their confidence. They should have taken into confidence the members of the lower House who do not belong to the Congress and us who are on the Opposition side, and their assent or consent ought to have been taken. I understand, and I think I read in papers also, that the consent of the Opposition was not taken. But at the same time we must remember that the Congress spent the money, Rs. 73,172, for the safety, the health and the convenience of the public which had collected there. I think nearly 5 lakhs of people had collected. Though I read in papers that it was the cream of society which had collected, I beg to differ from the speaker who spoke that. It was the bulk of the population, the masses, the cultivators who had gone there with their children, wives, and in fact when the Haripura Congress was going on, I was there at my own place. I can say that each and every village was so much surcharged with the life and idea of going to that place, that it was as if going to a great pilgrimage. Members of the Congress looked upon it as a national movement. I do understand it was a national movement and an annual function where they want to bring in mass contact and there is no doubt that they succeeded to a very great extent. But the question is whether the present Government was justified in spending so much money. I do say that for the safety of the health and the sanitation and the convenience of such a large collection of people who had assembled there, it was the duty of any Government to come to the rescue of such people, so that there may not be epidemics, so that there may not be inconvenience, so that there may not be any breach of peace. Though I know that there were some pickpocket cases, some robberies and some violence, all the same it was very well managed and it is certainly to the credit of the authorities there that the management was so excellent.

The only grievance which I do feel and which I do object to is that the Opposition side was not taken into confidence by the Government. It may perhaps be the idea that the Haripura Congress Session was fixed

*Speech not revised by the member.

[Dr. P. G. Solanki]

at a time when the present Government was not in power. I understand that, but supposing the present Government was not in power when the Haripura Congress took place, what would have been the situation? Would the non-Congress Government have paid all this money? Of course, as I said, it would have been the primary duty of the Government of the day to look to the necessities of this collection of 5 lakhs of people. I do admit that the present Government did take steps in time, but the only thing which they did not do was they did not take the members of the Opposition into their confidence. If they had done that, I believe it could have been done with the consent of the majority and there would have been no grievance left. That is the only flaw which I want to point out to the Congress Government.

The Honourable Mr. M. Y. NURIE : Sir, at the very outset I wish to make it clear that this Government does not want to conceal anything from the Opposition. We certainly respect the criticism and the opinion of the Opposition. The only thing which pains us is the criticism made for the sake of criticism, and I wish to make it very clear that all healthy criticism is always welcome. Not only that, but we are ready to act up to such criticism which is constructive and helpful.

Sir, I may assure the honourable member Dr. Solanki that it was never the wish of this Government to hide anything from the Opposition. But as I said yesterday in the Lower House, when the orders about this work were given and the question was decided, the House was not sitting. The House sat for the first time in the month of January, I believe on January 10th or so, and these things were taken in hand long before that date. For the expenses which were required to be made and for the roads that were to be constructed or repaired before the Congress session was held this Government could not wait till the House met. Now, at the very first opportunity this Government has brought this fact to the notice of the House by putting it as a supplementary demand. The expense was incurred in connection with repairs and Government have come before the House only for a token demand. The amount was already spent and it was not necessary for Government to come before the House because more money was not required and the expenditure was met from the amount of repairs already with the Government. But Government came before the House with this supplementary demand only with the view to bring this expenditure to the knowledge of the House. So I think it will be clear to the Opposition that it was never the intention of this Government to hide this item from the Opposition.

Unfortunately, the discussion in this House has been to the effect that because there was a party meeting this amount has been spent. Leaving aside the question of the Congress session, the two points that may be argued or discussed are, whether this sort of construction was the primary duty of the Government or not and, if it was, whether they spent more amount than was necessary. These really are the two questions that should be considered. We have nothing to do, for the purpose of this question, with the question of the convenience of the party meeting and

[Mr. M. Y. Nurie]

the convenience of the people that would have collected there if otherwise those works were not necessary. All these circumstances were before the Government. The point is whether it is not the primary duty of this Government or any other Government to perform this sort of service which this Government did. Sir, it is not a question whether this would have been done for any Muslim League meeting or any *jatra*. Had it been any other meeting or any *jatra*, all sort of help would have been given by the Government and I do not really know why this issue is being clouded. Really speaking, it is not seen in its true perspective. I may inform this House that when at Faizpur there was the Congress session—and it was also away from the railway station—the then Government granted Rs. 12,000 for the repairs of roads to put them in proper order. If that Government thought it fit and necessary at Faizpur to provide facilities for communication and transportation, then at a place which was 13 miles away from any nearest railway station, where about 5 lakhs of people had to come and had to be taken in a very short time, where thousands of motor lorries and buses were to ply during the short time, please think what sort of road was necessary, and whether it was not necessary to repair the road and keep it in a fit condition, so that these motor lorries and buses could ply there safely.

After hearing and considering all these points, I am sure the House will come to one conclusion, and that is that this was a right expenditure and this Government or any other Government ought to have incurred it. I just ask the honourable members from Bombay City why it is necessary that such good roads should be made here and Rs. 8-8-0 per square yard should be spent by this Government on the construction of roads. The reply would be, I presume, that the Government should look to the conveniences of the people and safety of the people and the kind of transport which will use the road while designing and constructing the roads for the town. I ask you then whether all these considerations existed there or not. If Bombay wants 4 lakhs of rupees for its Marine Drive only, then for 13 miles road you cannot say that this amount was even excessive.

Professor SOHRAB R. DAVAR : Bombay pays you amply.

The Honourable Mr. M. Y. NURIE : The roads which we make, we hand over to the Municipality and what you pay goes to the Municipality. Municipality makes it necessary that this sort of road should be made by the Government in the interest of safety and of the people who live here. I think many better people went there. But there is not the question of rich or poor people. The whole question was to consider the kind of conveyance which was mostly to ply there. Thousands of motor lorries had to run on this road. If the road from Madhi to Mandvi had been in good condition, we need not have repaired it. But it was not. Most of the road is a part of the provincial road. And the provincial road is always an important road in the Province. There is a 4 mile piece belonging to District Local Board and 9 mile piece is provincial road on which motors and buses ply throughout the year and they also connect the

[Mr. M. Y. Nurie]

forest. It is only a 4 mile-piece which was District Local Board road which was taken over by them as the District Local Board had no funds to construct it. There was no way out of it. When 5 lakhs of people in three days were going to a place 13 miles away from the station, motor buses had to ply, motor-cars had to run; and what would have happened if the Government had not done it? There the clouds of dust would have risen and in that cloud of dust, nobody could see and ply a car safely. It was the duty of the Government then to see that no accidents happened there. It is required that Bombay-Poona road should be modernised and asphalted. Is it not required because of the traffic on this road? Why should you not then allow under the same circumstances the same sort of road at Haripura? We did not spend money there so lavishly. As I said, if the Government in 1935 thought it its duty to spend Rs. 12,000 for the repairs on the road leading to Faizpur, which was only $3\frac{1}{2}$ miles, then it does not lie in the mouth of the Opposition to say that this expenditure was a wastage of money on the construction of 13 miles of road. But the House should also remember that it has brought us income. Every gallon of petrol has given two annas income to the Province. How many thousands of gallons would have been consumed in those ten days? The Opposition does not consider it unfortunately, because the whole issue has been clouded; as soon as you think that the Congress session was there, you jump to the conclusion that that is the reason for constructing the road there. The whole point has been discussed on that line. I quite appreciate the remarks of Dr. Solanki who knows the things, who saw what happened there. I can assure the House that there is not such a rush of Motor traffic at Queen's Road or Marine Drive as it was there. About 4 lakhs of people of the Province went to Haripura and used the road. If Bombay people can ask us that modernised roads should be constructed for them, certainly they too had a right. If year after year it can be done for town people, certainly once in a life it could be done for the villages. When rich people want this money when they ply in motor-cars, they would not say "no" to any expense because they want all comforts. As for the first time money has been spent to tar a road in an out of the way place though necessary, yet they say it is wastage of money! An asphalted road from here to Thana would be welcome. Perhaps, the thing would go to the press, just complimenting the Minister saying that it was necessary; but if it is done for Haripura they all say "Oh, no, it is a wastage." It is so very unfortunate that we do not look to the other side of the case. We always look at a thing from our own interest. Everybody from Bombay demands that the Bombay-Poona and Bombay-Nasik roads should be asphalted, side-lanes should be made for the use of the bullock carts and the carts should not be allowed to ply on the central road. Sir, it does not lie in their mouths, therefore, to say that the tarring of the road at Haripura and spending of the money on the repairs of the road was an unnecessary expenditure.

Professor SOHRAB R. DAVAR: Everyone looks from his own interest.

The Honourable Mr. M. Y. NURIE : That is the whole question. We have to see from the public point of view. (*Interruption.*) Only one thing I have to say that when the Congress Government has acted on a principle as far as the road policy is concerned and which it wants to continue, they cannot be blamed.

With these words, Sir, I resume.

Khan Saheb A. A. KHAN : Sir, what about the information that I asked ?

The Honourable Mr. M. Y. NURIE : I said 13 miles. I think the honourable member was sleeping.

Khan Saheb A. A. KHAN : I was not.

Professor SOHRAB R. DAVAR : Sir, it is very rude to say that the honourable member was sleeping. I do rise to object and protest.

The Honourable Mr. M. Y. NURIE : I am so sorry ; I did not mean any discourtesy, but I said it, as perhaps many times during my speech I said that there is one piece of 9 miles and another of 4 miles.

The Honourable Mr. A. B. LATTHE : As regards the conversation which is going on, I think, honourable members ought to be told that even when somebody is speaking remarks are being made which might provoke retorts which would be very unpleasant.

The Honourable the PRESIDENT : I have noticed, with regret, the tendency to carry on conversation or to interrupt an honourable member or an Honourable Minister. I believe and I still very strongly hope that the honourable members of this House realising the dignity of the House and of themselves will so behave that it will never be necessary for the President to give any advice or to interrupt anybody. I am leaving it to the good sense of the honourable members and I have full faith that they will do exactly what is up to the dignity of the House. (*Professor Davar rose at this stage.*) The honourable member will resume his seat and will not discuss with me. I have expressed the hope and I am entitled to believe that the hope will be fulfilled by all the members.

The Honourable Mr. M. Y. NURIE : Sir, I propose item No. 22 for discussion. (*After a pause.*) I propose item No. 29 for discussion.

Mr. MAHOMED AMIN WAZEER MOHOMAD TAMBE : Sir, I would like to know the policy of the Government as regards the distribution of grants amongst various divisions.

The Honourable the PRESIDENT : I have not yet properly caught the question of the honourable member. Does he want to enquire about the policy of the Government ? If he does, then, I think, it is not open to discuss the policy of Government on those items. The question of policy is discussed at the time of the budget. The policy of Government

[The President]

on the various roads is discussed then. If you want information or want to say that the expenditure is not proper, then the honourable members can criticise the items, but they cannot enquire about the policy at this stage.

Mr. MAHOMED AMIN WAZEER MOHOMAD TAMBE : I wanted policy only, Sir.

Dr. P. G. SOLANKI : Sir, as it is 4 o'clock and as these two items are important, I think, it would be better if we adjourn at this stage and postpone the consideration to tomorrow.

The Honourable the PRESIDENT : I am sorry these dates are fixed by the Governor and the discussion has to take place on the dates fixed by the Governor, under the rules.

Mrs. HANSA J. MEHTA : Sir, I place item No. 13 for discussion.

Dr. G. S. MAHAJANI (Poona *cum* Satara) : Sir, the explanation on sub-item 2 is :

"Payment of arrears of pay of clerks in Government educational institutions in Bombay City.—Payment of arrears of pay amounting to Rs. 43,950 had to be made to clerks in Government educational institutions in Bombay City as it was due to them under the Fundamental Rules."

I want some explanation of this. Why was the pay in arrears and how is it that this amount is to be paid this year ? Again, Sir, regarding sub-item 3, we read "Additional grants to the Karnatak College, Dharwar, and the Royal Institute of Science, Bombay". So far as science departments are concerned, I think, Karnatak College is the youngest college in that line and the Royal Institute of Science may be called the oldest.

Now, how is it that colleges like the Elphinstone College or the Gujarat College do not require any grant, and these two colleges only, the youngest and the oldest, require a grant by way of capital expenditure ? These are the two questions on which I wish to seek enlightenment.

Mrs. HANSA J. MEHTA (Bombay City *cum* Bombay Suburban District) : Sir, with regard to the arrears, I would like to draw the attention of the House—

The Honourable the PRESIDENT : If honourable members find any difficulty in hearing the lady member, I would request her to come to the front bench, so that it may be possible for members to hear her.

Honourable MEMBERS : We can hear her.

Mrs. HANSA J. MEHTA : I would like to draw the attention of the House to Government Resolution No. 2748, dated 26th November 1936, which says :

"Government are pleased to direct that those Educational Department clerks who on 1st March 1925 were substantive on Bombay scales of pay but who under the operation of the Government Resolution, Educational Department, No. 2761, dated the 2nd February 1926, were brought on to lower mofussil scales, should now be permitted to exercise with retrospective effect, from 1st March 1925, the option to which they were entitled under Fundamental Rule 23 which was then applicable to them and to have their subsequent pay adjusted accordingly."

[Mrs. Hansa J. Mehta]

There was another Resolution in 1937, which entitled other clerks to it. There were two Government Resolutions, one in 1936 and the other in 1937, both bearing the same number.

With regard to the second point, money was required for apparatus. According to the University Regulations they have to buy the necessary apparatus; these colleges need it.

Dr. P. G. SOLANKI : On item No. (v) under the same demand, an additional allotment—

Mr. SHANTILAL H. SHAH : I thought, Sir, the procedure was that after all the members had spoken the Minister in charge should reply. I do not know whether this is a departure. As a matter of precedent I am raising this point. Every time if a member is allowed to speak—

The Honourable the PRESIDENT : The honourable member has not understood the request of the honourable member Dr. Solanki. He is not making a speech or carrying on a discussion. He finds that he has got some information to obtain, and he is only asking for information. He is not carrying on the debate further; the discussion is over. But I have allowed him to make some enquiry to get information.

Dr. P. G. SOLANKI : That is my desire, Sir. Under this item it has been mentioned that, in accordance with the decision taken by Government on the recommendation of the Reorganisation Committee, these yearly savings are to be utilised for grants to non-Government Secondary Schools, and these grants are to be given to such schools. But the apprehension which I have got in my mind is this. Up till now the Government secondary schools were catering for the needs of the pupils of the minority communities. In future when these secondary schools are independent by themselves, getting grants from the Government, is there any condition laid down by the Government that the pupils of the minority communities who would attend these schools will be given the same concession and special facilities which they were getting up to now in the Government secondary schools? If that condition is not there, then I do submit that it will be a handicap and hardship on the pupils of the minority communities which are very backward in education.

Mrs. HANSA J. MEHTA : Sir, the honourable member has not understood the item. It was decided that in case Government closed their secondary schools, the money spent on those schools should be utilised for grants to other secondary schools. The Government high school at Hyderabad was transferred; also the Government middle school at Surat was closed last year. The point raised by the honourable member about the pupils of minority communities does not arise in these cases at all. Government have already announced their policy with

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regard to pupils of minority communities, and in future wherever they are going to hand over to private agencies their secondary schools, their interests will be safeguarded.

I place item No. 14 before the House.

I place item No. 15 before the House.

I place item No. 21 before the House.

The Honourable Mr. A. B. LATTHE : There is only one more item that remains, and that is No. 2. I place item No. 2 before the House for discussion.

The Honourable the PRESIDENT : That finishes the Supplementary Grants.

BUSINESS OF THE HOUSE.

The Honourable Mr. A. B. LATTHE : Yesterday, Sir, you asked for the Government programme with regard to the work of this House. Except the legislative programme, there is nothing that could be placed before the House, now that the work in connection with the budget has been finished. After taking into consideration all the circumstances, Government desire that the House should now be adjourned till the 11th of April. I might say that the Government have got quite a large legislative programme to be placed before the two Houses of the Legislature, and from today onwards the Legislative Assembly will be discussing the various Bills. But if this Council is to meet tomorrow, it would not be possible to place before it any of the Bills passed by the Legislative Assembly. Therefore, we thought, since the House would have to sit for a fairly long time from the 11th April onwards, it would be best now to adjourn the House and request honourable members to re-assemble on the 11th April. From then onwards till the whole work is finished, it is expected that both the Houses will have to sit, and possibly the work might go on till very nearly the end of next month.

The Honourable the PRESIDENT : The Probation of Offenders Bill is not finished. I should have thought that we might finish it tomorrow, but there will be no other work. Government have then to give two days for non-official business. I take it two clear days will be given irrespective of the legislative work ?

The Honourable Mr. A. B. LATTHE : Yes, Sir. We considered the question of the Probation of Offenders Bill as well as of the non-official work. But then we thought that if the House started disposing of that Bill and the non-official business now, the adjournment period would be very short. Supposing we sit for two or three days more and then adjourn and ask the House to re-assemble on the 11th April, the intervening period will be so short that the mofussil members would find it very inconvenient. In any case, on the 11th April there would be two

[Mr. A. B. Latthe]

or three Bills ready for discussion, because by that time they would be out of the other House. It was to meet the convenience of the mofussil members, especially of this House, that we thought of these things. So, the Probation of Offenders Bill and the non-official work will be taken up after the House re-assembles on the 11th instant.

Professor SOHRAB R. DAVAR : You expect us to go on till the end of next month ?

The Honourable Mr. A. B. LATTHE : It may be that the Assembly as well as this House may have to sit till the end of April.

Professor SOHRAB R. DAVAR : We may have to sit in May also ?

The Honourable Mr. A. B. LATTHE : I hope not.

Mr. D. P. DESAI : We may finish the two Bills in two days.

The Honourable Mr. A. B. LATTHE : It is very difficult to foresee what may happen. It will depend on the time taken by each House on the two Bills. It will be difficult to make an accurate prediction about these things. In any case, the work before the House will be long enough to take us to about the end of the month. There will be several Bills of importance, like the Primary Education Bill, the Village Panchayats Bill, the Ayurvedic and Unani Bill, and the Bombay Municipal Corporation Franchise Bill, and there may be one or two other Bills. I would therefore request you, Sir, to adjourn the House till the 11th April, by which time a lot of legislative work will be ready for consideration by this House.

The House then adjourned till 2 p.m., on Monday, the 11th April 1938.

Monday, the 11th April 1938.

The Council re-assembled at the Council Hall, Bombay, on Monday, the 11th April 1938, at 2 p.m., the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HAMIED, Dr. K. A.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, Khan Saheb A. A.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
 VIRKAR, Mr. M. B.

The following Honourable Ministers were also present :

The Honourable Mr. K. M. MUNSHI
 The Honourable Mr. MORARJI R. DESAI
 The Honourable Mr. L. M. PATIL

GOVERNOR GENERAL'S ASSENT TO ACTS.

The Honourable the PRESIDENT: Intimation has been received that His Excellency the Governor General has been pleased to grant his Assent to the following two Bills which were passed by the two Chambers of the Bombay Legislature during this Session, and the last Session respectively, namely :—

Bombay Act No. VII of 1938—An Act to amend the Bombay Finance Act, 1932.

Bombay Act No. VIII of 1938—An Act to provide for the temporary relief of small holders in the Province of Bombay.

LEAVE OF ABSENCE : Mr. B. B. POTDAR.

The Honourable the PRESIDENT : I have received a letter from the honourable member Mr. Potdar in which he says that on account of the unfortunate death of his uncle he is unable to attend the Council meetings. The letter is dated the 9th instant and is as under :

"On account of the most unfortunate death of my uncle this afternoon, I shall not be able to attend the adjourned session of the Bombay Legislative Council for about a fortnight. I shall have to be busy with the affairs relating to his obsequies. Please therefore get my leave of absence for a fortnight commencing from 11th April 1938 sanctioned by the Council."

I take it that the House has no objection to grant the leave of absence to Mr. Potdar. [*Honourable Members*: No objection.] Leave is granted.

STARRED QUESTION AND ANSWER.**TEST FOR CLASSIFICATION OF RECURRING AND NON-RECURRING EXPENDITURE.**

*Mr. S. C. JOSHI : Will the Honourable the Finance Minister be pleased to state—

(a) in clear terms what exactly is meant by (1) Recurring and (2) Non-recurring expenditure ;

(b) whether the classification of a particular expenditure once made is likely to be varied when a similar expenditure has to be provided for on some other occasion ;

(c) the test applied to differentiate between the two classes of expenditure mentioned in (a) above ?

The Honourable Mr. A. B. LATTHE : (a) and (c) Non-recurrent expenditure is that class of expenditure which involves little or no liabilities in future years. If e.g. a well or a tank is constructed, the expenditure is complete immediately the construction is over. Should any expenditure be required in future years on repairs or maintenance, it will be negligible in comparison with the cost of the well or the tank. Likewise temporary establishment is non-recurrent. Recurrent expenditure is expenditure which requires to be repeated for some years or permanently.

(b) No.

UNSTARRED QUESTIONS AND ANSWERS.**REDUCTION OF THE RATE OF INTEREST AND RAISING OF THE INSTALLMENT IN RESPECT OF TAGAVI LOANS.**

Mr. N. S. DESAI (Dharwar cum Kanara) : Will the Honourable the Minister for Revenue be pleased to state—

(a) whether the recent reduction in the rate of interest on tagavi loans is applicable to both old and new loans ;

(b) whether it is a fact that Government intend to increase the number of instalments in case of big tagavi loans from ten to twenty ?

The Honourable Mr. MORARJI R. DESAI : (a) The reduced rate of 5½ per cent. recently sanctioned is applicable only to tagavi loans sanctioned on or after 1st February 1938.

(b) It is presumed that by big loans the honourable member refers to loans granted under the Land Improvement Loans Act. The statutory limit for repayment of loans under this Act is 35 years. Officers empowered to sanction loans under this Act can allow repayment in up to 20 years. Extension of the period of repayment beyond 20 years requires the prior approval of Government.

LAND MORTGAGE BANK IN HANGAL AND HAVERI TALUKAS.

Mr. N. S. DESAI (Dharwar *cum* Kanara) : Will the Honourable the Minister for Revenue be pleased to state—

(a) whether Government intend to establish land mortgage banks in Hangal and Haveri talukas of the Dharwar district or do Government intend to establish them in some other talukas of the district and extend their operation to these talukas ?

The Honourable Mr. MORARJI R. DESAI : (a) The possibility of establishing land mortgage banks in Hangal, Haveri and other talukas of the Dharwar district or of extending the operation of the existing banks in the district to those talukas will be considered soon. The Registrar is at present making enquiries with a view to advising Government as to the most suitable areas for new Land Mortgage Banks.

APPRECIATIVE REFERENCE TO Mr. J. R. DHURANDHAR'S SERVICES AS SECRETARY OF THE COUNCIL.

The Honourable the PRESIDENT : Before we commence the proceedings of the day, I wish to refer to one or two matters. Honourable members must have heard and also noticed that Mr. Dhurandhar, Secretary of the Council, having been appointed Legal Remembrancer, has ceased to be the Secretary of the Council. By reason of his legal attainments and high qualifications, he richly deserves the high position that he is now occupying. Speaking for myself, since I took up the Office of the President he gave me very loyal co-operation, and I also feel that without his co-operation my work would not have been so easy as he made it.

Honourable members must also have noticed that Mr. Chainani, who was the Secretary to the Legislative Assembly, has now become the Secretary of the Council. I expect from him the same loyal and devoted co-operation that he gave to the Honourable the Speaker of the Legislative Assembly and trust that he will render it to me and to the House.

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT: I understand that the Honourable the Home Minister is busy with the Select Committee meeting on the Primary Education Bill. If honourable members have no objection, the next Bill which stands in the name of the Honourable Minister for Local Self-Government may be taken up first.

BILL No. XI OF 1938 (AN ACT TO AMEND THE BOMBAY DISTRICT MUNICIPAL ACT, 1901, AND THE BOMBAY MUNICIPAL BOROUGHS ACT, 1925, FOR CERTAIN PURPOSES).

The Honourable Mr. L. M. PATIL: Sir, I beg to introduce Bill No. XI* of 1938 (An Act to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for certain purposes).

The Honourable the PRESIDENT: Bill No. XI of 1938 is introduced.

Sir CURRIMBHOY EBRAHIM: Sir, I beg to oppose this Bill on principle—

The Honourable Mr. L. M. PATIL: Sir, may I know if the honourable member is in order?

The Honourable the PRESIDENT: He has not yet completed his very first sentence, and I am just wanting to know what he wants to say.

Sir CURRIMBHOY EBRAHIM: Sir, if I have understood rightly, the Bill has been introduced.

The Honourable the PRESIDENT: If the honourable member wishes to oppose the Bill, that is, the principle of it, then he can do so after the Honourable Minister in charge moves its first reading. If he, however, wishes to oppose some clauses of it, then the proper time to do it would be at the second reading when the House takes the Bill clause by clause. Just now the Honourable Minister has only introduced the Bill and the honourable member can oppose the Bill—if on principle then after the Honourable Minister has made a motion for the first reading; if some clause of it, apart from the principle, then at the second reading.

The Honourable Mr. L. M. PATIL: Sir, I beg to move that Bill No. XI of 1938 (An Act to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for certain purposes) be read a first time.

Question proposed.

The Honourable Mr. L. M. PATIL: Sir, the main features of the present Bill are the abolition of nominations, reservation of seats for certain minorities and option to the Mussalmans to have joint electorates

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at any time. The principle of abolition of nominations has been accepted by all, and I need not offer any remarks on that question. The Harijans, backward tribes and those minorities who, under the Government of India Act of 1935, are entitled to separate constituencies to elect representatives to the Bombay Legislative Assembly are given reserved seats on the population basis as far as possible. Under the Bombay District Municipal Act there are separate electorates for the Muhammadans. There are no doubt certain exceptions to this. In a few District Municipalities like the Rahimatpur and others, even for Muhammadans there are joint electorates. The type of electorates for the Mussalmans is determined by rules which are framed under the District Municipal Act. It is now intended that wherever there are joint electorates for the Muhammadans they will be continued, but where there are separate electorates for them, option will be provided, so that the qualified Mussalman voters in any area of a District Municipality can choose to have joint electorates. The rules will be so amended as to provide such option for Muslims. The Bombay Municipal Boroughs Act provides separate electors for Harijans and for Muhammadans. The present Bill intends to abolish separate electorates in the case of the Harijans and also makes provision to introduce the option clause for the Mussalmans, so that the qualified Mussalman voters in any Municipal borough can select the type of electorate that they want at any time.

Some of the principles that are introduced in the present Bill were already introduced in the Bill amending the Bombay District Local Boards Act, which was introduced in the last session and was passed into law. The main features of the Bill have already been thoroughly discussed and I do not intend to take much of the time of this honourable House by offering more remarks regarding those features.

With these words, I request the honourable House to accept the principles of this Bill.

Sir CURRIMBHOY EBRAHIM (Bombay City *cum* Bombay Suburban District): Sir, I oppose the principle of this Bill on the ground that the Government have been fully aware that my party, that is, the Muslim League Party, is against joint electorates and, as a matter of fact, my party has expressed all over the country, leaving aside the Bombay Presidency, that it is always for separate electorates. I really fail to understand as to why the Government intends to introduce and enforce upon us joint electorates, saying that the Bill merely provides an option. The system which I expected from the Congress Government was that they would devise ways and means to reach a type of mutual understanding with the community which is opposing tooth and nail this system of joint electorates, and I would not be surprised if the unity that prevails between the two communities at present is more set apart for some time more because of this kind of attitude which has been taken by the present Government. Sir, I am afraid that if such kind of attitude persists,

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then every Muslim shall have his own doubts and the little confidence that he now feels in the Government will also disappear. As regards this Bill, Sir, when the Local Boards Act Amendment Bill came in, they were very well aware of the fact that every member of my party had opposed the very principle of the joint electorate and the Government is fully aware that the majority of the Muslims are voicing this. I would like to ask the Government whether they would condescend to call a public meeting of all the Muslims and take the consent. If the Government is under the impression that I am speaking because I want separate electorates, it is not for that reason that I am speaking. I am not speaking at all for my own purpose or for my own reasons. I am speaking on behalf of the Muslims and if the Congress Government is prepared to make a statement that they are going to call a public meeting where the Muslims can express their views and the community itself is going to give its consent, then individual persons like me shall have no voice. I have read the remarks made on the floor of the Lower House. I am referring to this because of the fact that one or two honourable members made a remark that this Government represents the nation. It is all right if they represent the nation; but there is a community—a community of 80 to 90 millions—which does not side with this view at all and they are very well aware of it. If they are working for the nation-building of this country, they should try to respect the views of the community who does not want this and if they happen to respect the views, I feel sure, personally, in my own capacity, that the day might come when the Muslims themselves may come forward and say that they have confidence in you. We cannot consent when we can consider—though we are 80 or 90 millions and compared to the majority community—the Hindu community—our number is very very small. I know there are still smaller communities than ours. Therefore, though we are 80 to 90 millions, we want our representation not by electorates where 9 are voting or 10 are voting for a representative of Muslims and 7 or 8 are voting for the other, though he is supposed to be elected. That would be a difficult problem, for my community at least, evident from representation.

There is another argument and it is this. Here probably the municipality has a joint electorate. Everybody is aware—many of my friends who have been elected in the municipality are fully aware—as to how the election takes place. What happens at the time of election? I am not making any kind of criticism, but I am sure many of my friends will agree with me here as to what sort of elections those are and how straight elections they are! I am sure, my honourable friend, Professor Davar, will also be able to say the same thing. I know he belongs to a minority, but even then there are certain methods. Probably the rich people who are able to spend tons of money are able to come, because the majority is of the poor voters. They naturally expect something. I know what the effect is and I would request the Government to withdraw this Bill

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and not to enforce it. Otherwise, I am afraid that the word that is on the programme and the policy of the Congress, the word "independence"—if these two communities never unite, there shall be no independence. They will never see the shadow of independence without us. Therefore, we want independence as a whole. They are making statements that we want our things to be done in the way we want. When we have confidence in you we will ask: Now we are prepared to join you and we can re-do matters in the way we like, but for the time being, it is no use accepting or disrespecting the views of the Muslims. Under the circumstances, I would request the Government not to press this.

With these few words, I shall resume my seat.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar): Sir, I support the principle of the Bill, but I cannot do so whole-heartedly because it seems the Government policy in this respect is a halting policy. Government do not go to the extent to which they ought to have gone and that is why they have repeatedly to hear the taunts from friends who are opposed to the principle of this Bill. As Government always claims that it represents the nation, I think it should once for all make up its mind, and take up the challenge and take a referendum, which will satisfy the friends on this side led by Sir Currimbhoy. But this sort of pampering up, saying that they want to remove special reserved seats for Harijans and want to give option to the Muslims by leaving it to their sweet will, that naturally irritates them. They challenge the Government that it has no right to say that it represents the nation, because they (i.e., Muslims) do not allow it. They say Government does not represent them. This half-hearted halting policy must be given up by Government. But as the principle is a sound good principle, it should be exploited to its full length and Government should do away altogether with this option clause and once for all say that it adheres to this principle of joint electorate. As Government is moving towards it, we cannot oppose the principle, but still we would like to suggest to the Government that it should do away now with this policy of half way house and should take it up to its full and logical extent.

*Dr. P. G. SOLANKI: Sir, I, with a diffident mind, will give my own observations on this subject and this Bill tries to at least tell the scheduled class people that they are given reserved seats and thus their situation is being made safe, at the same time asking the Mahomedans to consider the question of the option-clause which is embodied in this Bill. First, speaking about the Mahomedan feeling, I have been in close touch with the Mahomedan community of the Bombay Presidency regarding their political aspirations for the last 10 or 11 years and I know as much about their sentiments even at this moment and today, as they and each and every one of their party here and in the Lower House know. They are opposed tooth and nail to the representation of the Mahomedans

* Speech not revised by the member.

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by joint electorates. They had been throughout clamouring for separate electorates. They got it in the communal award. They do not want to give it up because they know what has been the fate of a scheduled class reserved seat in the Assembly election. This reservation of seats for the scheduled castes has not at all satisfied the communities which constitute the scheduled classes throughout the Bombay Presidency. What has been our experience, Sir? When we entered into the Poona Pact with Mahatmaji, we had full faith that the following of Mahatmaji would enter into the spirit of the Poona Pact and when we did agree to save the life of Mahatmaji and to save him from the epic fast we agreed to this that there should be first panel-election and that panel-election would be the decision of the scheduled class for itself and for one seat four members from the scheduled class are to be elected. So far we had nothing to quarrel or we have nothing to quarrel. But the stage which comes further, that is a stage which is a trap for us. In the joint electorates, for which my Mahomedan friends are justly apprehensive, it is the joint electorate where we are handy. I would like to point out these facts, because we are at the mercy of the overwhelming majority of the Hindu voters of the Congress. A man who is the idol of their community among the scheduled castes, a man for whom his whole community will act, looking at his merits, his status, his influence and even his good deeds for the community, which he might have done,—but what happens in the joint electorate when the Congress put up their own candidate? We do not mind even if they put up, but the worse thing is this. The Congress issue a mandate which is most objectionable from our point of view, I mean, the point of view of the scheduled classes. They say—and that is the sentiment of the majority of the communities of the scheduled castes—under the word Harijan the Congress Government and the Congress people have robbed all the sub-castes of the scheduled classes, and that is why we object to that. Even now, what does the word “Harijan” indicate? It indicates the lowest strata of the Bhangis and the Chamars. Mahatmaji himself has been explicit in his paper “Harijan” when writing of Harijans. He says the Vankars form a community by themselves, which is in a majority. The same is the case in Maharashtra and Kanara. But I am not quarrelling with that word now.

Coming to the actual experience of the joint electorate, how it works in a harmful way to the interest of the scheduled castes for whom so much solicitude is shown by the Congress Government! We do not quarrel with the motion and the ambitious scheme which the Congress Government has put forward for the amelioration of the conditions of the scheduled classes and the efforts they are putting up. We are one with them, but the method by which they want to bring their own nominees in the Assembly and in the Council, as well as the District Local Boards and in the Borough Municipalities and District Municipalities, will result in what? Even in the Surat District, where election has taken place, the Congress people had their own nominees and they brought in their men against the will of the scheduled castes which are staying in the Surat

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City itself. I have received letters. They say: What have you people done? You people have ensnared us and trapped us by entering into a pact with Mahatmaji at Poona and how long are we going to be in this trap and be entrapped? There is no solution. They ask us the question every day. And who come there? It is the people who, out of their personal motives, personal advantages and personal considerations, overnight become Congress members, sign the Congress ticket, become members and they are elected the very next day. The same way, the Mahomedans have got their fears. They are watching us, they are watching our fate, how we are left at the mercy of the majority community and the majority community in the Congress Camp is the community out of which the majorities are orthodox and those orthodox people, even though they say that they belong to the Congress creed, still the Congress creed people have no soft corner for the scheduled classes when the question of temple-entry comes and there have been instances, Sir. These are our experiences and on this very ground, this Bill, though on broad general principle it may be very beneficial to the majority communities and to other communities for which they have brought in this Bill, for the scheduled castes and the Mahomedans it is detrimental.

With regard to the question of the reservation of seats, if Congress means well by the scheduled castes, I would submit
 2-30 p.m. that the Congress should stick to the spirit of the Poona Pact and not go further and issue a mandate for their own nominee or candidate, because their object was to bring in only the scheduled castes' representatives in the Council and the Assembly and on the local bodies. Nothing further than that, and that is the pious desire of Mahatmaji, and that ought to have been the pious desire of the loyal and devoted followers of Mahatmaji. That has not been so; and in order to mend it, in order to win over the suppressed voice of the dissatisfied minority communities and the scheduled castes at least, the Congress Government should come forward generously and say "In the joint electorate we shall not issue a mandate for voting for any nominee, but we will give a chance to each and every candidate of the scheduled castes who will stand and let each voter on the Congress side as well of the general public vote for the man whom they think best in their minds. If this little act of kindness or generosity is done towards the scheduled castes, I can assure the Congress Government that the present heart-burning and grievance will be minimised to a certain extent. But I believe that it will take perhaps a long time to solve that question. But this is my suggestion and hint to the Congress Government. I do submit that when a particular section of the community and the scheduled castes do not want this form of the Bill and the rights and privileges to be given to the public at large, it cannot be said that it is the voice of the nation which demands it. I do submit that it is the voice of the party Government, of the Congress party, and it is not the voice of the people. Out of the 80 millions of Mahomedans and 70 millions of the depressed classes, I

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may deduct about a million or two who may be siding with the Congress, but the remaining majority are not of the Congress view. They are independent, and their views I have brought before this House. If these people are not to be heard, if their ideas are not to be considered, if their spokesmen are not to be heard, what is going to be the final decision? What is going to be the solution of this tangle? The voices of these people may be suppressed and drowned for some time, but a time will come when they will assume perhaps a serious form, a very unpleasant form, and the result will be that instead of the unity which we have been trying to bring about, there will be an uproar and a rising against the present patchwork which the Congress Government is trying to have. So, let the Congress Government be generous enough, let them understand the feelings of the scheduled castes and the Mahomedans, make common cause, as Mr. Deodhekar has said, take a referendum. What will be lost? We all stand as Indians. As Indians let us understand each other. Let us exchange ideas and let us come to a final conclusion to the satisfaction of the whole of India. I do submit that then alone India will be in a position to have independence and Swaraj. There may be a change of Bills, there may be a change of words, there may be amendments here and there, but as long as there is no change of heart on the other side for the minorities like the Mahomedans and the scheduled castes, I do submit that this superficial show of unity and common sense of administration is moonshine and nothing else.

Khan Saheb A. A. KHAN (Central Division): Sir, I rise to oppose the first reading of the Bill. The general considerations on which the question of joint *versus* separate electorates has been broached by the honourable members who have preceded me are considerations which I very humbly submit this House should take into consideration when deciding whether the Bill should be read for the first time.

I agree with them when they state that unless there is confidence in the minority parties with regard to the intentions of the majority party, it would be absurd on the part of the majority party to legislate in the interests of the minority parties. I also agree with the view that has been just now placed before the House that, with the introduction of joint electorates, the scheduled castes have suffered a good deal. I am afraid the fate of the Mahomedans will be similar to the fate of the scheduled castes. Sir, to my mind, this option which has been referred to by the Honourable Minister as a gift to the Mahomedans is either a superfluity or a camouflage. It is a superfluity in this sense that the Mahomedan community has been enjoying the right of separate representation for a period of about 15 years so far as election to municipalities are concerned. This right has been given to them after the experience of nearly 15 to 20 years with regard to elections in respect of the Legislatures in the various Provinces of this country. That separate electorates are merely a feature of the transition stage in the political development of the country is a point on which probably there will be no two opinions. But while

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accepting that position, the Mahomedans have been putting forward their claim to separate electorates for a period, which it is not possible for them to determine. At this stage I submit that the time has not come for them to revise the position. They have been enjoying separate electorates, and separate electorates, in my opinion, is a greater right, which includes within itself the lesser right of joint electorates with reserved seats. If they have been enjoying the greater right for a period of 15 years with regard to municipalities and for a period of 30 years with regard to the Legislatures, surely the lesser right is still theirs for them to exercise at any time they like. Where was the necessity, I ask Government, for legislation on this question of option, when that option is already with the Mahomedans, when the right to choose has been given to them and can be exercised by them at any time? From that point of view, I consider this Bill to be merely a superfluity.

I think it is going to have very far reaching effects. In my opinion, it is nothing else but a mere camouflage for something which Government intends doing in the very near future. The fate of the scheduled classes will probably be the fate of the Mahomedans three years hence. It is true that the clause provides for an option. The clause which contains this very wonderful gift which has been made to us by Government provides that the option will be exercised by the majority of the voters. But I submit that in the conduct of the Government during the past 10 or 11 months there is nothing to inspire confidence in the minds of the Mahomedans of this Presidency with regard to their intentions. Take the case of this option clause itself. Some months ago, the Bill for the amendment of the Local Boards Act was introduced. A similar option clause found place in that Bill. Rightly or wrongly, whether in logic and in reason or otherwise, the Mahomedan members of the Assembly, the majority of them, emphatically stated that the time had not come for the introduction even of an option clause in the Bill. Government are at the present moment in occupation of the Treasury Benches as a result, not of any intellectual superiority on their part, as a result not of any particular experience in administrative matters in the past, but as a result of mere majority. They are in the majority, they can form a majority party, and therefore they are entitled to sit on the Treasury Benches. But the moment their majority goes, they will have to leave those benches very soon. Carry this principle of majority to its logical conclusion and apply it to the Mahomedans also. Here is a question which primarily affects the Mahomedans. If joint electorates are introduced into this country, they are likely to affect not the majority community but the minority communities. They are likely to affect the Mahomedans. If that is a matter which is likely to hit the Mahomedans most, or is likely to affect the Mahomedans most, would it not have been logical, would it not have been reasonable on the part of Government to have accepted the view that had been put forward by the majority of the Mahomedans in the Assembly and in this Council? You are there by

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right of majority, and yet you are not prepared to concede to the Mahomedans the same right of deciding questions which are likely to affect their vital interests from the point of view of majority. If I am not mistaken—I speak subject to correction—only two Mahomedan members of the Legislative Assembly supported this Bill, and the Honourable the Home Minister very naively remarked that those members represented the Mahomedan view. He wanted to suggest that it was not the 28 members forming the Muslim League party in the Assembly who represented Mahomedan views on the question of joint or separated electorates, but it was these two Mahomedan members, who were prepared to see eye to eye with the Government on the question of introduction of joint electorates, who really represented the Mahomedans; and therein lies the catch in it.

The Bill will be passed because Government are in the majority. In spite of all our opposition, the Bill to amend the Local Boards Act in this respect has been passed. Three years more, and probably the Mahomedan voters in this country will be consulted as to whether they are in favour of continuing the system of separate electorates or whether they want joint electorates. It is quite possible, just as it has been possible for two Mahomedan members of the Legislative Assembly to support the action of Government, for a small section of the Mahomedan community to come forward and say that they agree with Government in thinking that the time has come for the introduction of joint electorates. From the conduct of Government in forcing the Local Boards Bill on us and from their conduct in forcing this Bill on us, would it be surprising if Government were to turn round and say that that small section of the Mahomedan community which would decide in favour of joint electorates is really the section which counts, the section which matters, that it is the educated section, that it is the literate section, that it is the section that understands the interests of the community better, and that the others are merely masses who do not understand anything, probably ignorant, probably illiterate, led by the nose by selfish leaders for their own self-interest? Will it not be possible for Government to say that and to say "In view of the situation, although three years ago we had legislated very solemnly that we shall pay respect to the views of the majority of the Mahomedans, we find that it is not possible for us to do so, and we find that it is much better in the interests of the country, the larger interests of the country, in the interests of nationalising the various sections, the various races, the various groups which go to form the inhabitants of this country, in the larger interests of the country we repeat, it would be better to respect the wishes of the smaller section, the intelligent section, the section that understands, and to introduce joint electorates"?

The Honourable the PRESIDENT: Order, order. The conversation that is going on interrupts me in hearing the honourable member who is addressing the House.

Khan Sahab A. A. KHAN : Sir, I was remarking that it is quite possible for the Government to take advantage of that situation. Government have taken advantage of that situation. They have shown by their conduct that they are not prepared to pay any respect whatsoever to the considered wishes of the Muhammadan members of the Assembly, and it will not be surprising at all to find that three years hence Government will pay more regard to the wishes of the smaller section which agrees with them, rather than of the larger section which does not agree with them.

Sir, it has been remarked that the introduction of joint electorates will lead to establishing harmonious relations between the two communities. To say that I was staggered by that statement is, to put my feelings very mildly indeed. I am afraid the experience of the Honourable Minister for Local Self-Government has been a very happy or a very limited one, and I am inclined to think that it is the latter. It is well-known to those who fight elections in this country that elections leave an aftermath of bitterness, of enmity, of feuds which sometimes prove to be of long-standing. The spirit of regarding elections in a sportsmanlike manner is still to grow up, to develop and to be created in this country. Even if the rival candidates might be prepared, after the result of the election has been declared, to shake hands with each other, whatever may be their feelings, those who have been canvassing for them do not participate with them in that spirit of goodwill in which they shake hands with each other.

Supposing joint electorates are introduced in this country, what will happen? A few Muhammadan candidates will approach the Hindu voters, and a few Hindu candidates will approach the Muhammadan voters once in five years. But to say that this will conduce to good relations and goodwill, and that peace will arrive, and everybody will be happy, these are not matters of practical politics though we read of them in story books. Personally speaking, if it is really the desire of the Honourable Minister to bring about harmonious relations and feelings of goodwill between the two communities, I think he should look for his field of activities in some other direction. The proper way to go about a business like this is to approach these matters from the social and religious points of view. We in this country have been living side by side with each other. We rub shoulders with each other in practically all matters, but as a matter of fact we have been practically living in two separate and watertight compartments not knowing each other's feelings and sentiments, not sharing each others aspirations and ambitions; and, if the foundations of a future nation are to be laid down, they should be laid down on lines which would enable the two communities to know each other better and to share each other's ambitions and aspirations more fully. I suggest that Government might induce the Hindus to participate more in Muhammadan festivals and in Muhammadan functions and induce the Muhammadans to participate more in Hindu festivals and Hindu functions. I assure you, Sir, that about 30 years ago the festival of Muharram was observed more strictly by Hindus than Muhammadans.

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Year after year thousands of Hindus used to congregate in all the important towns of the various districts and observe all the features of the Muharram festival and take part in that festival just as much as if it were their own. But a regular campaign was launched against the participation of the Hindus in the Muharram festival. For the last 30 years Hindu leaders have been going to the masses and telling them "Look here, you have 365 deities for the 365 days of the year, why do you want Muhammadan deities, and why do you go and participate in Muharram? It is not necessary for you, and if you want any kind of *tamasha*, we will organise one for you". And accordingly the Ganpati festival was started. Now, I think that if the Hindu leaders were to revise their attitude in these matters, a good deal will be achieved and it would be a step in the right direction and harmonious relations would be established. Sir, in my own town, in the Cantonment of Poona, a public Ganpati was installed in the year 1924. There was a meeting held in the pandal of the Ganpati and I was requested by the Hindus of the locality who had erected the pandal, to come and preside on that occasion, and I did so. Similarly, if the Hindu leaders were to go and preside on occasions of religious festivals and social functions of the Muhammadans, I think harmonious relations and feelings of good-will will be established in the two communities much quicker than by means of this quack pill which has been advertised so much, namely, joint electorates.

Sir, there is yet another side to the question of joint electorates. This is an All-India question, and I am not giving out a secret when I say that with an all-India question, even the Congress Government has very little discretion. It must look up to its own leaders for directions and this is as it should be. Well, the question of joint or separate electorates is an all-India question. It is a question which does not necessarily affect the Bombay Presidency only, but it is a question which affects all the other Presidencies. Our all-India leaders, our high command to use the same words, have been trying to negotiate with the high command of the Congress for the settlement of this vexed question and what has been done! Practically nothing.

Sir, the proper procedure to adopt before introducing a piece of legislation like this was for the leaders of both sides to have met together, to have discussed the question from all practical points of view and to have arrived at a practical and feasible scheme. Mere introduction of joint electorates with reserved seats will not be practical politics and I will illustrate this by quoting facts and figures and I say that it will prove ruinous and disastrous to the Muhammadan community. Take, for instance, the case of the Poona City Municipality which is one of the most important municipalities in this Presidency. There are 10 general wards sending about 40 members to the Municipality and 1 Muhammadan ward sending 5 members to the Municipality. Now, the voting strength of these 10 general wards put together is about 50,000, while the voting strength of the Muhammadan ward is 5,000. So, at the present moment

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the Muhammadan candidates have to approach 5,000 Muhammadan voters. God knows that it is expensive enough! The system of elections that has been introduced into this country has not very much improved the finances of the country. However there it is, and as they say "Beggars cannot be choosers"; just as Government are making the gift of this optional clause to us, and expect us to take it as it is. If joint electorates are introduced with reserved seats, no doubt 5 Muhammadan candidates will be returned to the Municipality; but at what cost? They will have to approach not 5,000 Muhammadan voters, but 5,000 *plus* 50,000, that is to say, 55,000 voters for the purpose of securing their seats. They will have to incur 11 times the cost that they are at present incurring for the purpose of securing a seat on the Municipal Board, and the result will be that any Muhammadan who is daring enough to come and contest a seat under the joint electorates may probably do it in haste, but will surely repent at leisure. I would not be surprised if he has to seek the protection of the insolvency courts. Therefore, the object of this measure is to drive the Muhammadan candidate into the Congress party, which is the only organised party at the present moment in the country, and which is the only party which possesses large funds at its disposal. To the Muhammadan candidate the Congress will say "If you want to be elected, you will have to incur heavy expenditure; it is probably more than your purse can bear. If you want to secure your seat very easily and without much expense to yourself, come and join us. We are waiting for you; we are prepared to welcome you. We are prepared to spend all the money that is necessary for the purpose of your election campaign, and we shall see that your seat on the Municipal Board is secured for you."

Sir, we are prepared to accept the principle of joint electorate, provided some kind of a practical scheme is evolved as a result of discussions between the leaders of the two communities. I have not thought much over this matter, but I am making a suggestion which has occurred to me only today. The suggestion is if you really think that you should have some voice, however small it may be, in the matter of the election of the Muhammadan members to the Municipal Board and to the Legislatures, you might evolve, or you might put forward a scheme like this: Every Muhammadan candidate before he could be declared successful at an election will have to secure a certain percentage of the Hindu voters and every Hindu candidate a certain percentage of the Muhammadan voters, and then out of these the one who secures the majority of Muhammadan votes and the Hindu votes respectively will be declared successful. I am merely suggesting that such things could be done if there is a desire. Where there is a will there is a way. You want to develop us; you want to build a nation. We are prepared to help you; we are prepared to co-operate with you. Sir, the conduct of our party during the last 11 months has been such that you can raise as high expectations as you like regarding its intention to help and co-operate with you. After the elections were held the leader of the Congress party was invited by

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His Excellency the Governor of Bombay to form a Ministry. When the leader of the Congress party refused to form a Ministry, Sir Ali Mahomed Khan Dehlavi, the leader of the Muslim League Party, as the Muslim League Party was next in majority, was sent for and invited to form a Ministry. He could have done it. Others did so, and he could have done the same. He would have been richer by several thousands of rupees if he had accepted the invitation and he could have formed a Ministry which would not have been so shortlived as the Interim Ministry, but might have lived much longer. I know these are questions of speculation, and we need not enter into them at great length, but the fact remains that he refused to form a Ministry at great sacrifice. He would not have received the meagre pay of Rs. 500, but would have received several thousands per month. But why did he refuse? Because he thought that according to the democratic principles which have been established in this country, and according to the principle of party Government which has been established in this country, the Congress party which was in a majority had the right to form a Ministry and that he should not form one. Was this consistent with a policy of developing a national spirit in this country or was it in a spirit of communalism that he actually spurned away the offer which was made to him to form a Ministry? Proceeding further, the question of Federation came up; did the Muslim League Party vote with you, or did it go against you? Proceed further, the question of prohibition came and although as Muslims we are in favour of prohibition as such and although Sir Ali Mahomed Khan laid down the other day the eleventh commandment "Thou shalt not drink", still it was possible for us to consider the question of prohibition from a practical point of view and to find out whether it could be successful in a country like India when it was not successful in more civilised countries like America and even Turkey, when in the latter there is the religion of Islam which prohibits drink. It was possible for us to go into all these details. It was possible to ask whether all this money which was likely to be spent over prohibition was going to be usefully spent, or was going to be wasted. We had a right to ask whether the policy of prohibition was in the nature of political fireworks, or was in the nature of something for the regeneration and for the development and the improvement of the country. But we did not do so.

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We supported it. We have all along been supporting you in all matters which concern the nation as a whole. We have never opposed you in matters which are likely to affect the interests of the nation, but where the question of our own community comes in, we do sometimes express to you that we do not see eye to eye with you, in the views and opinions which you have expressed and the policy which you have laid down and the legislation that you have brought forward. To accuse us of being communal is to say something which, I submit, is exceedingly absurd. As I said, we are in favour of joint electorates, provided joint electorates will not work out harshly on the Mahomedans, but will work out in a beneficial manner,

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regard being had to the Mahomedans in this Presidency, as well as in all the other Presidencies in this country. But till that is done I must regard this gift, which has been made by the Honourable Minister, as merely a camouflage for depriving us of the right of separate electorates which we have been enjoying. Sir, the Romans had a proverb: We fear the Greeks, when they bring us presents. I repeat it to Government.

The Honourable Mr. MORARJIR. DESAI: On a point of information Sir. Who ever said that this was a gift?

Khan Sahab A. A. KHAN: The Honourable Minister for Local Self-Government himself said so.

Professor SOHRAB R. DAVAR *rose*.

The Honourable the PRESIDENT: I do not know whether the honourable member has finished or whether he sat down by reason of the interruption.

Khan Sahab A. A. KHAN: I sat down, Sir, by reason of the interruption and I wanted to know whether I should proceed. As I was saying, the Romans had this proverb. They feared the Greeks even when they brought presents. We have reason to fear the Greeks on the opposite benches, even when they bring presents, particularly when their conduct has been such as not to inspire any confidence. Confidence begets confidence. Do something to create confidence and then when you do come forward with any proposal, we shall be the first to co-operate with you. We shall extend the hand of co-operation across the table and say "Well done", but not till then.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, as a member of the Parsi community, I am pledged for joint electorate. My community is a very small and microscopic one, perhaps the smallest community in India, but we voluntarily denied separate electorate, though repeatedly asked and even cajoled by certain quarters—I speak from personal knowledge that we were cajoled from very high quarters. We have placed considerable confidence in our sister communities, though in great majority and we thought that we will be better off under joint electorate than under a separate electorate. The other reason which guided us in accepting joint electorate was our intense patriotism for India. We wanted and we do want today even as we stand that the day may come when all of us may look upon each other as one race, united in one aim, that is the good of our country. And with that ideal in view—and the Parsis are always practical idealists—they accepted joint electorates and took the risk. So far I must say that we have no reason to be sorry for what we have done. We are quite comfortable and we are quite happy, though circumstances have arisen, now and again, which have given us disappointments. Well, in a case like this, unfortunately we have to take risks and

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even face disappointments. We have to work up, as far as we can, towards that ideal which we have before us, namely, India united and I therefore appeal to all to keep that ideal in forefront.

My friends the Mahomedans, who are no doubt the second largest community in India after my friends the Hindus, were not so confident as we were. They preferred a separate electorate. I should very much like to see them come and join hands with us, but I should like that they should do so voluntarily and with a free will of their own. (*Hear, hear.*) No doubt, the Congress Government has inserted this clause in the Bill that we are now discussing with the object of seeing that Mahomedans should come in and join as a nation. But for some reason or other the Mahomedans as a community—and I have conversed with the most prominent members of that community—fear that there is something behind it and they think that this clause being introduced in various directions might ultimately break up their own unity. This may be a vague fear or this may be a delusion or they may be wrong, but the fact remains that there is that fear. It is for the larger and the major community to win them over with pleading and with practical demonstration of that love. I say that and the idea is not my own, because I well remember that no less a person than Mahatma Gandhi himself expounded the same doctrine. In one of his writings or speeches, he too has said that rather than have the minority community separate from us, let us so behave that the minority communities may enjoy power, may even rule the country, by major communities denying various temptations to hold power. To that extent the greatest man of India has taught us to act. He had the same ideal, namely, to win over the confidence of the minority communities. Unfortunately, human nature is selfish. In practical considerations of life, that selfish disposition cannot be lost sight of in the balance. We had recently a demonstration of it in our Municipal Corporation. Unfortunately, we found there that there were three candidates of three communities, the Mahrattas, the Parsis and the Gujaratis, for a high post which was put to vote and to my surprise and to my great regret, in fact, it was a heart-breaking spectacle before me, I found that the communities were divided into three compartments as far as voting was concerned, the Mahrattas voting for the Mahratta candidate and the Gujaratis voting for a Gujarati, even though wearing Congress clothes and naturally we, the Parsis, voted for our man, because in our opinion the man's qualifications were the best. Even some of the members of the other communities agreed that the qualifications of the Parsi were the best, but they did not vote for him. I do not put it as a grievance. My honourable friends opposite may take it. I put it as an illustration that we are not yet nationalised in the sense in which we should be. If the Parsis had voted for the Mahratta or the Gujarathi candidate on merit, I should have been very happy. Please do not misunderstand me. At the same time, if the Mahrattas and the Gujaratis had voted for the Parsi, it would have gladdened my heart and I should have thought that we are all working for the common ideal, to put in the

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best man. But unfortunately that was not the case. All are to blame, not only the Parsis, but also the Congress gentlemen who also voted on communal lines and actually canvassed on communal lines. I rather point this out to my Congress friends and appeal to them to issue a disciplinary order and to see that the majority communities so behave, at least those that belong to their own party, as would win over the confidence of the minority community and do not become fully communal. The Corporation is not communal, mind you, in other respects. It has always acted in a most impartial way, as far as elections to its standing committee and other committees are concerned, but I was shocked to see that on that day some evil spirit from above had come down to obstruct our national unity, which, I believe in and I love as much as any other member in opposition or on my side. So I say that that is the cause evidently of the nervousness among my Mahomedan friends. They evidently think that their interests will not be safe except in the hands of other communities and I say this as a nationalist, as a pro-Congress nationalist if you like, though not a member and say that this is how I felt on that day. I hope that is a stray incident. I hope that it will never occur again.

Now there is another institution to which I belong, namely, our Indian Merchants' Chamber. That is a truly national institution. Every member of the Indian Merchants' Chamber or its committee votes on merit, without regard to any communal idea. That has greatly encouraged me and I have always been fond of my friends there. This I say and I admit that the Congressmen opposite sitting in this House or down below are non-communal, but let us behave in such a way as to win over the confidence of all communities, at least the majority community, the Hindus should behave in such a way, should give up and even sacrifice themselves, leaving aside all personal or selfish considerations, rising above communal or racial considerations, show to the minority community that we are here a nation and if that day comes, Swaraj will not be far off. As a united India, with 350 million people, there will be no other country in the world that can defy us, still less rule us. I am praying for that day. I am rather fairly old now. As far as age goes, I am fairly advanced. I hope that before I pass to another and better world, I shall see that unity established among us and Swaraj attained in this beautiful and the dearest country of ours. With this idea, I submit that we must make some compromise, we must arrive at some *via media* by which our Mahomedan sister community may be brought within our fold just as I, a Parsi, am already in the fold of joint electorate. I understand that my friend Dr. Mahajani is going to move for a select committee to see if we could arrive at some compromise. I trust my honourable friends opposite and particularly, the Honourable Ministers, will give their sympathetic consideration to this proposal so that we may try and take that first step towards bringing the largest minority community within the fold of joint electorate in the interest of the future of our country. That is what is my ideal as a national Indian who

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wishes unity established in this country and men put in positions only on merit and merit alone. I have always fought for Congress views in the Press, and on the public platform, with one idea that when the national Government comes, our men of best talent will be recruited in the service of the country, irrespective of caste, creed, religion and even party persuasion. As long as he is a nationalist, whether he is in the Congress fold or outside, I submit that he should be given the reward of his merit. With that spirit only we shall succeed. No doubt, we have a Party Government and I will be told that democracy is to be worked by Government. My answer is: let us work the party Government not on the old lines in which other countries are working it. Let us fit our party system of Government to the conditions prevailing in this country. There is no other country in the world where there is such a menagerie of castes, communities, races and creeds. Even among the Hindus there are thousands of castes. Among the Gujarati Hindus there are so many castes. The other day I was talking to a Bhatia gentleman who told me that among the Bhatias there were many castes. The Bhatias are a small community, and I was surprised to hear that they have many castes. These conditions must be provided for in our democracy. We have to remember that party Government, strictly on party principles, as carried on in a country like England, is hardly suitable to our requirements. We have to make adjustments. Rather than ask a member of another community, who has at one time occupied very high office, to sign the Congress Pledge, just to enable him to hold office, I should like to allow him to remain where he is and to accept office without signing any pledge. What is the value of a pledge, which is simply signed with a view to be able to secure a position? That, on the contrary, reduces the status and efficiency of the Government. I therefore submit that, if some system of coalition could be devised, whether the Congress is in a majority or a minority, that would be the best in the interests of our country. I understand that the Congress High Command is considering something on that line. They are considering I understand that where Congress is in a minority, they may coalesce with other parties. I would go further and urge them to consider this where the Congress is in the majority and they find that a person who is not within their fold but is in entire sympathy with most of their ideas, but there are certain reasons why he cannot openly join them, and is so efficient that his service is desirable in the interests of our country he may be taken up in an office without signing the pledge but certainly on a gentlemanly understanding. A gentleman's contract is, I submit, even more binding and more valuable than a sealed contract because if a sealed contract is made between two parties and if one of them is not a gentleman he will break it when it suits him, but if it is a gentleman's contract, it will be worked even if confronted with death. That is the way I look at the unity which we are aiming at. Following that principle, I hope that my friends opposite will put this view of the case to the High Command and see if something could not be done, with their great

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experience and wisdom, to bring about unity among the communities, and particularly with the Mahomedan community first and the Christian and other communities and the scheduled castes afterwards. Because the Mahomedans are the largest minority community, it is but fair that they should be taken in any system of Government and should be given a fair share of course according to their merit and ability, not because they are Mahomedans. Confidence should be created among them that their interests would be safeguarded. With these words, I commend my views to my honourable friends opposite.

Dr. G. S. MAHAJANI (Poona *cum* Satara): Sir, at the appropriate stage I propose to move a reference of this Bill to a select committee of this House. At this stage, I would like to invite the attention of honourable members opposite—members sitting on the Treasury Bench—to a very welcome remark that fell from the lips of the new-comer to this House, my honourable friend Khan Saheb Khan. I distinctly remember him to have said that the Muslim community would agree even to the principle of joint electorates, if a provision to the effect is made that any one who stands in a joint electorate, and if he is to be a representative from among the Muslims, must have secured a certain minimum percentage of votes of the Muslim community, and a similar condition might apply to the Hindus. It just means that if you have a joint paper, say, in history and geography, and if you have to pass in that joint paper, then the University lays down a condition that in each you must get at least say 20 per cent. marks, otherwise you do not pass in that joint paper.

My point in inviting the attention of the honourable members to the remark is this, that this question of joint versus separate electorates, which appears so very thorny, is not, after all, so insoluble as it appears to be at first sight. Last time I tabled an amendment for joint electorates, but this time I have not, simply because I do not believe in mere fireworks. I feel now that there is another way of getting the same objective, namely, by a reference of the Bill to a select committee.

A significant point in this connection is that the Government have not followed what I consider to be the most practical way of dealing with such problems. There has been so much legislation during the course of the last year, since the present Government came into office,—much of it in the interests of the masses and they deserve all congratulations for it,—but I have yet to discover the appointment of a joint committee of this House and of the Assembly on any piece of legislation. There is provision for it. Take the *ad hoc* committees appointed by Government, the Vocational Training Committee, the Physical Education Committee and so on. On no such committee has a member of this House been appointed! In the case of select committees, I grant all the members have to be members of the same House. But I submit they could appoint joint committees in which the co-operation of members of both Houses can be secured. Well, Sir, if it is intended by the Congress or by

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the Government to discredit the Upper Chambers and to do away with these Chambers at the next instalment, I should be certainly for it. The Liberal Party, in fact all parties in this country have been against the introduction of Second Chambers, and if a proposition is brought before this House for the abolition of Upper Chambers, I should be willing to vote for it. But in the absence of such a proposition, if we have accepted Upper Chambers, please do not prevent the members of the Upper Chamber from giving what little good they can in the service of the country. That is not fair to the poor "elders". Therefore, I would like Government in future to have joint committees on as many Bills as possible. The Primary Education Bill was an important one. They could have appointed a joint committee on it, but they have not. Probably, I am departing from the proposition before the House, but I do consider that if a procedure of the kind I have suggested—reference to a joint select committee—is adopted, in talks across the table, suggestions or proposals like the one sponsored by our friend Khan Saheb Khan could be discussed; in that case, it might be possible to introduce joint electorates in place of the option clause. That opportunity, I think, Government have lost, but it is not yet lost completely. I believe it might be possible, even in a select committee of this House to achieve it. The Bill could then be referred to the Assembly, in its altered form, and if it does not accept it, there may be a joint session of both the Houses. I am not entitled to move the proposition now. I only support the principle of the Bill, because it takes us somewhat further, in the hope that Government will accept the suggestion which I am going to make at a later stage.

*Mr. M. G. BHOSLE (East Khandesh *cum* West Khandesh) (*Addressed the House in Marathi*): Sir, I support the proposal to have joint electorates as included in the present Bill. There is ill-feeling between the two great communities, the Hindus and Mahomedans, and in order to remove that ill-feeling, joint electorates is a very good remedy. That is my opinion. Without the mutual co-operation of the two communities, nothing can be done. Now the Hindus and Mahomedans are opposed to each other, and that is to the detriment of the interests of the country. If they combine, it will be beneficial to the country. From past experience I can say that in municipalities where the Mahomedans are in minorities, persons belonging to their community have been elected as presidents. I can quote the instances of Ahmedabad, Ahmednagar, Poona and Bombay.

Khan Saheb A. A. KHAN: On a point of information. There has been no Muslim president of the municipality in Poona.

Mr. M. G. BHOSLE: They say that as they are in a minority, if they are not provided with separate electorates, they will not get votes. To that my reply is that in the places I have mentioned Mahomedan

*Speech not revised by the member.

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gentlemen have been elected as presidents because of the mutual confidence which exists between the two communities. Therefore, it is better for them to work in co-operation. They may think that the minorities stand to gain by separate and communal electorates. But it is not so. With separate electorates, they are inclined to look only to the interests of the particular community or area and not to the interests of the country as a whole. All the communities should combine, co-operate and work for the good of the country. Mahatma Gandhi and Frontier Gandhi are working for it; they are trying to bring about unity between the two great communities. If my honourable friend Khan Saheb Khan says that the Mahomedans must have separate communal electorates, it is a sad thing. It is really the misfortune of the country that gentlemen coming from big places should make this request, when it is most essential that they should co-operate. History tells us that although at the time of Shivaji the Hindus and Mahomedans were fighting with one another, still Shivaji had Mussalman Sardars under him, and they were quite satisfied. My experience has been that although the Brahmins are a small minority, still they are returned in large numbers in the local bodies, because of their ability and knowledge. Take the case of the Parsis. Although they are a small minority, they are returned in large numbers in the elections because of their fitness. My honourable friend Khan Saheb Khan says that the Mahomedans will suffer. I do not understand how by joint electorates the Mahomedans stand to lose. Joint electorates are in the interest of the country. We must look to the interests of the country first and then to the interests of the community. The man who works for the country works for the community also. We should not look at the question from the point of view of a frog in the well. Sir, Mahatma

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Gandhi and Mr. Abdul Gafoor Khan, who is known as the Frontier Gandhi, are trying their level best to establish harmonious relations and goodwill between the two communities. I am sure if Hindus give their votes to Muhammadans and *vice versa*, that would help to establish good relations between Hindus and Muhammadans very quickly. From my own experience of my district local board, I can say that Hindus and Muhammadans are working shoulder to shoulder in the national cause and giving every facility to each other.

For all these reasons, I trust the House will give its unanimous sanction to this measure.

Dr. K. A. HAMIED (Bombay City *cum* Bombay Suburban District): Sir, the question of joint electorates has been before the country from the very inception of the idea of nationalism. It is not a new question and the Muslims have always been considering whether joint electorates are better for them or not. Sir, my honourable friend opposite said that today Muslims do not want joint electorates. I beg to differ from him. There is a vast number of Muslims in this country who wholeheartedly

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support the idea of joint electorates. Of course, there is a certain group of Muslims who are opposed to joint electorates and I think the reason for this opposition is not far to seek. In my opinion, such Muslims who are afraid of joint electorates are afraid because of the fact that they fear they will never be elected if joint electorates come in. That is the true position of the whole situation. To me and to hundreds of people of my thinking the question of joint electorates has never troubled.

Sir, the question of electorate is a fundamental principle of a democracy. We cannot imagine a democracy when a certain individual is elected to any Assembly or Legislature in which all the people have not voted together in the election of that person. The present form of democracy in India, whether Provincial or Central, is not a true form of democracy, because today there are people sitting in the Assembly, in the Lower House, who have been elected without the Muslim votes. I mean the Hindus who have been elected without my vote, without the Muslim vote, are not true representatives of this Province. Similarly, all the Muslims who have been elected without the votes of the Hindus are not true representatives of the whole Bombay Province, and, therefore, the Assembly is not a true democratic institution. Under the rules of democracy, every man sitting to legislate upon us must be a true representative of the whole Province and as such Hindus and Moslems must vote together for the selection of the persons who are going to legislate upon us. This is the fundamental principle of democracy and, if that is so, I am afraid our legislatures, the Central Assembly and Council, are not true democratic institutions.

Sir, my honourable friend opposite has raised the question of "high command" of the Muslim League, and this brings me to the question of a little analysis of the Muslim League members. They represent, and they say so that today they represent, the whole of India. I very much beg to differ from the statement made by my honourable friend. There are hundreds of thousands of Muslims today in Bengal, in Punjab and especially in those Provinces which are predominantly Muslim, where the Muslim League has no hold. In the North-West Frontier Province where three-fourths of the population is Muhammadan, the Muslim League has no voice. In Sind also where the Muhammadan population is three-fourths, the Muslim League has no voice. Therefore, to say that the Muslim League represents the whole Muhammadan community of India is nothing but a camouflage.

Sir, I was once talking to a certain very prominent Muslim League member and I must here relate this story because it is very relevant to the present question. He asked me why the Muslim League leader is so popular and why he has such a grand following wherever he goes. The reply I gave was that a certain type of Muslims who wanted to keep themselves away from the consequences of politics, namely, *lathi charges*, *satyagrahas*, imprisonments, jails and suffering, are following one leader, because they know very well that that leader will be always opposed to sufferings and *satyagrahas*, therefore they are backing that leader.

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My honourable friend has suggested that because the Congress has got tremendous funds at its disposal, it will buy the Muslim votes and will influence the electorate as they like. I think that the Muslim League leaders today are equally rich; they can also put enormous funds at the disposal of the League, and with leaders like my honourable friend opposite, Sir Currimbhoy Ebrahim, and with other Muslim leaders of Bombay who are very very rich, such position should not occur at all. They can also buy the Muslim votes.

Khan Saheb A. A. KHAN: I never said "buy Muslim votes". If you do not follow me, I cannot help that. [*Interruptions.*]

Dr. K. A. HAMIED: I also mean influence Muslim votes. Sir, I think that the question of joint electorate is very necessary for the life of the nation. It is necessary for all forms of democracy. Without joint electorates we cannot conceive India rising and forming into a big nation.

I therefore request the House to adopt this Bill, which is intended to be a very small step towards the experiment of joint electorates in the district local boards, and, Sir, if this form of experiment comes out successful, then our attempts to have the joint electorate system for the whole of India, Provincial and Central, may also prove successful.

I therefore request the House to adopt this measure without a single division.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira): Sir, I support the first reading of the Bill. My honourable friend opposite raised the point regarding the operation of the present Act and the effect of this Bill also if it were passed. Speaking of my own district, Sir, I may state that there the Muslims have been elected by overwhelming Hindu majority as Presidents of the Municipalities and Presidents of the Local Boards also, and if the Government were to adopt the wishes of the Muslim League it will rather keep both the communities not together, but rather keep them asunder as they at present are. The Bill is a half-way house—but I should think it is not even a half-way house—as this Bill simply gives the Muslims of the area the power to declare whether they want the existing separate electorates, or whether they want joint electorates. If the Muslims come to a decision that they want separate electorates as at present then they may have them, and if they do want joint electorates, then they may have joint electorates. It is left to their choice.

Khan Saheb A. A. KHAN: We do not want it.

Mr. DADUBHAI P. DESAI: You may not want it in Poona, but on our side, I must say that it would be a very very welcome measure and would be welcomed by the Mussalmans. Sir, the good relations that exist between the educated Hindus and the educated Moslems have gone to such an extent in my district and in some places of Gujarat that we

[Mr. Dadubhai P. Desai]

have, as I said just now, elected Muslims as Presidents of the local bodies, of the Municipalities and of the Local Boards. In the Bombay Municipality, we have seen, Sir, that though the Hindus form a majority, Muslims are periodically elected as Presidents. Now, if the desire of my honourable friends opposite has been carried out and if the principles and the policy as propounded by them were literally adopted by Government what would be the effect on the Hindu community as such? The Hindu community would go further and further away from the Muslims. That would be the effect of such a measure.

On this point perhaps my honourable friend opposite will agree that now the time has come that some approach, some further approach should be made between the two communities. If the Muslim community do desire that they do not want such an approach then this Bill provides for it and leaves them at liberty to declare that they do not want this approach and that they do want to keep away from the Hindus even in the local spheres. In Municipalities and Local Boards nothing is to be gained by having elections on communal lines, as there are no communal problems. If you want to decide communal problems then of course the demand for separate electorate would have been justified. But in matters such as a well to be constructed in one village or a tank repaired in another village and a road to be constructed in a third village, separate ways of thinking are not necessary and only such are the questions that come before the Local Bodies. So, I cannot understand how the Muslims can with justification say that separate electorates would conduce not only to their own well-being but also to the well-being of the town or the district which they serve.

Personally I think that if they desire to disturb the working of the District Local Boards and the municipal areas, then I should say that for such disturbance separate electorates and all these arrangements may be recommended. But for Local Bodies, I appeal to the Leader of the Opposition that it would be far better if the Muslims and Hindus are brought together, because there is no personal or individual advantage to be gained, but the advantage is for the particular area, or for the duties and work to be performed in that area. So, in order to bring about harmonious relations, I should think that the Bill should have been brought so as to bring about joint electorates and leave no option. But here the Honourable Minister rather conceded the point that so far they had separate electorates and now this selection or rather this choice should be given to the Muslims themselves. He has conceded this right of the Mussalmans to declare once for all whether they want joint electorates or not. And if the majority of the local bodies do desire that joint electorates should be introduced in their areas, then, perhaps, an amendment of the Bill may come forth, after some time, for joint electorates.

With these remarks, Sir, I support the Bill.

The Honourable Mr. L. M. PATIL: Sir, really I did not desire to speak much on the provisions of this Bill, but as there has been many a point raised by the honourable members from the Opposition, I have to give replies to them. The honourable member Sir Currimbhoy Ebrahim has said that the optional clause is an encroachment on the rights of the Muslims. He claims that the separate electorates that are given to the Muslims is a right. In the first place; I do not agree that it is a right. On the other hand, I am of opinion that it is a curse not only on the Muslim community, but on the whole country. Even taking for granted that it is a right, I do not know how the optional clause will act as an encroachment on this right. We are not taking away the separate electorates of the Muslims. We only say that whenever the qualified Muslim voters in any area of a municipality desire to have joint electorates, they can have them. Is this an encroachment, is this a reform being foisted on them? The question is left to be decided by the sweet will of the Muslims. If they want joint electorates, they may have them. If they do not want, the optional clause will remain a dead letter. Why should then so much fuss be made about this optional clause? There is really no intention on our part to take away any right of the Muslims or to foist any reform on any minority against their will. Then the honourable member Sir Currimbhoy Ebrahim said that without co-operation and goodwill on both sides this question should not be discussed at all. I do admit that this reform of joint electorates should not be introduced unless there is goodwill and co-operation between the two communities, but the optional clause tries to achieve the object of securing co-operation and goodwill. The Hindus and Muslims in any municipal area will naturally depend upon each other in mutual confidence so very necessary for the successful solution of the civic problems of their areas. So this optional clause, instead of creating any enmity, will certainly foster friendly relations between the two communities. It is feared by the Muslims that this option is a thin end of the wedge and it will create more communal canker between the two communities. I am unable to entertain any such fear. Moreover, it was also made clear during the last session in this honourable House and in this session on the floor of the Lower House that when there is a genuine desire on the part of the Muslims, this optional clause will be put into effect. A referendum or a plebiscite will be taken and if it is found that the Muslims are in favour, by a majority or by a unanimity, of the joint electorates, they will be introduced. So the honourable House will see that it is not an encroachment on the right, nor foisting of the reform, on the Muslim community. The honourable member Sir Currimbhoy has said that the suspicions and the misgivings that are lurking in the minds of the Muslims ought to be removed by the actions of the major community. As far as the Congress Party is concerned, I can say that during the nine months that we are in office we have tried our level best to satisfy the interests of all the communities. We have made more provision for the scholarships of the Harijans and of the Muslims, we have in no way hurt their feelings. So, the Congress has been trying and will be trying to bring all the

[Mr. L. M. Patil]

communities together and thus create unity and solidarity amongst Indians.

The honourable member Dr. Solanki has said that the Harijans have suffered very much because they are given joint electorates, but as far as I know, in the Provincial Legislatures and also in Central Legislatures, they are given a weightage. They are given more seats than what they deserve on the population basis. (*Dr. P. G. Solanki*: Question.) In district local boards, under the new Bill that was passed into law, you will see that in various district local boards Harijans are given seats, on a liberal scale. For example, in Ahmedabad, they have got five seats, in Surat they have got two seats, in Kaira they have got three, in Ahmednagar seven, in Sholapur eight, in Satara eight and so on. Formerly, when there were no reserved seats they were getting one or two nominations at best in each district local board, but now they are getting 6, 7, 8, and so on; and still they think they suffer because they are given joint electorates! (*Dr. P. G. Solanki*: They have suffered immensely.)

Then, Sir, I just said that separate electorate is a curse on the community. What happens in an election when there is a separate electorate? The man goes to the people belonging to his community and says: I am a Mahomedan or I am a Hindu and you should give your votes to me. But he never tries to explain what his programme is, what are his principles, what he has done and what he intends to do. Election in joint electorates is no doubt one of the best opportunities for the people to get the political training, because they come to know the programme and the principle of each of the parties and they should really vote on those principles or on those party programmes. But in the separate electorate, the candidates try to appeal to the religious and communal feelings of the voters and thus lull to sleep their thinking power. The candidates thus try to sidetrack the really economic issues that face an electorate. Again a reference to the Communal Award was made. It is not applicable to the local bodies. Even in our own Bombay Presidency, in the Bombay Corporation and the Cantonment Boards, there are joint electorates in the case of Mahomedans without any reservation of seats and in these Cantonment Boards and even in Bombay Corporation, they have been getting sufficient representation.

The honourable member Khan Saheb Khan has said that the best way to tackle this problem is for the leaders of both the communities to come together and to discuss this problem and to reach some agreed solution. This process has been followed for years and years. (*An Honourable Member*: Follow it again.) It has been followed and it is being followed, still no agreed solution has been attained. When Government were thinking to introduce joint electorates, I called the important leaders of the Muslim League and also of the Independent Labour Party, and I have already discussed this question with them and they said that for the present it would not be better for them if joint electorates are introduced into local bodies; so Government gave up that idea and this

[Mr. L. M. Patil]

optional clause which is most harmless has been introduced in this Bill. If leaders have failed, why should people themselves not give their decision in this matter? Leaders may come and go, but the masses are there for ever and for ever. Let them decide this question. Here the most democratic method has been followed by this optional clause. As long as there are separate electorates, there will be no chance of co-operation, goodwill or friendly relations existing between different communities. My honourable friend Khan Saheb Khan has said that within five years at the most, once at the time of the election the people of various communities will come together. But that is not so. There are elections of the local bodies, the panchayats, the municipalities, the Provincial legislatures, and of the Central legislature and on all these occasions different communities come together and try to know each other's views and thus there is bound to be more co-operation and more scope for goodwill. Voting for each other is really more valuable than dining together, because if the Muslim wants to vote for a Hindu candidate, he will generally try to understand what sort of man he is, what sacrifices he has made, what service he has rendered to the nation and what views he holds and so on. The same case will happen when the Hindu wants to vote for the Muslim candidate and thus there will be more goodwill and mutual understanding. The honourable member Khan Saheb Khan says that he wants co-operation, goodwill and friendly relations to exist between Hindus and Mussalmans, and still he is not in favour of joint electorates! He wants to have separate electorates at any cost. These are really contradictory statements. This is moving in a vicious circle. The people who are clamouring still for the separate electorates, have really gained some vested interests in the separate electorates and they do not want to part with them. Separate electorates encourage hypocrisy and fraud. It is the duty of every patriotic Indian to combat these evils that are existing in India today.

With these words, Sir, I again request the honourable House to approve
4 p.m. the provisions in this Bill.

Question, "That Bill No. XI of 1938 (An Act to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for certain purposes) be read a first time," put. The House divided..
Ayes, 17; Noes, 5.

Division No. 3.

Ayes

ATAWANE, Mr. A. M.	GUIDO, Mr. T. M.
BHOSLE, Mr. M. G.	HAMIED, Dr. K. A.
DAVAR, Professor SOHRAB R.	JOSHI, Mr. S. C.
DRODHEKAR, Mr. N. D.	MAHAJANI, Dr. G. S.
DESAI, Mr. DADUBHAI P.	MEHTA, Mr. CHINUBHAI L.
DESAI, Mr. NARSINGRAO S.	MEHTA, Mrs. HANSA JIVRAJ
DESAI, Sardar Rao Bahadur CHANDRAPPA	SHAH, Mr. SHANTILAL H.
B.	SOMAN, Mr. R. G.
GANDHI, Mr. RATILAL M.	VIRKAR, Mr. M. B.

Tellers for the Ayes: Mr. RATILAL M. GANDHI and Mr. T. M. GUIDO.

Noes

CURRIMBHOY EBRAHIM, Sir	SOLANKI, Dr. P. G.
KHAN, Khan Sahab A. A.	TANBE, Mr. MAHOMED AMIN WAKER
MAKAN, Khan Sahab MAHOMED IBRAHIM	MOHOMAD

Tellers for the Noes: Khan Sahab A. A. KHAN and Mr. M. B. VIRKAR.

Sir CURRIMBHOY EBRAHIM: Sir, I now wish to declare that I have been convinced that through sheer force of majority the principle of this Bill has been carried, in spite of Government knowing the fact that the Muslim community as a whole is against the principle—

Dr. K. A. HAMIED: With exceptions.

Sir CURRIMBHOY EBRAHIM:—with exceptions like yourself.

The Honourable Mr. MORARJI R. DESAI: Is a statement permissible now, Sir?

The Honourable the PRESIDENT: I do not know what is the statement he is making. There is no motion for the second reading or anything of the kind before the House. I do not know what the honourable member wants to say.

Sir CURRIMBHOY EBRAHIM: I do not wish to take part in the further proceedings in connection with this Bill. Step by step it will be carried through. I shall say what I have to say if I am permitted by the Chair.

The Honourable the PRESIDENT: If it is going to be a brief statement giving the reasons for which the honourable member wishes to walk out, the honourable member may continue.

Sir CURRIMBHOY EBRAHIM: The reason that I wish to give for staging a "walk-out" along with my party is that this Bill has been carried through sheer force of majority against the desire of the Muslim League party, which constitutes the majority of the Mussalmans in this country and in this Presidency. Therefore, my party shall not take any further part in the proceedings connected with this Bill in this House.

The honourable member with the other members of the Muslim League Party having left the Council Chamber—

The Honourable Mr. MORARJI R. DESAI: Sir, I cannot allow this statement to go unchallenged—that this Bill has been passed only by the majority of our members. Members of other parties have joined Government in it.

The Honourable Mr. L. M. PATIL: Sir, I beg to move that Bill No. XI of 1933 be read a second time.

Question proposed.

Dr. G. S. MAHAJANI: Sir, I wish to move at this stage:

“That this Bill be now referred to a select committee of this House.”

[Dr. G. S. Mahajani]

I should have preferred a reference of it to a joint committee of both the Chambers. But I am told that such a course is not possible at this stage. I am not asking for your ruling, but I would request you to consider at your leisure the two rules on pages 10 and 11 of the Council Manual, so that in future it should not be barred to this House to appoint a joint committee of both the Houses. I shall read rule 21J. It says :

“ If a resolution is passed in the originating Chamber recommending that a Bill should be committed to a Joint Committee of both Chambers, a message shall be sent to the other Chamber to inform it of the resolution and to desire its concurrence in the resolution.”

My submission is that this refers to the procedure to be followed if the resolution for a joint committee is moved in the originating Chamber. That does not preclude a similar motion being made in the non-originating Chamber, that is, the second Chamber. That is my submission. The other rule that I want to refer to is 21D.

The Honourable the PRESIDENT : I should like to draw the attention of the honourable member to the latter part of rule 21J.

Dr. G. S. MAHAJANI : Sub-rule (2) of rule 21 says :

“ If the other Chamber agrees, a motion shall be made in each Chamber nominating the members of that Chamber who are to serve on the Committee.”

The Honourable the PRESIDENT : The Assembly has passed the Bill.

Dr. G. S. MAHAJANI : The Assembly has passed the Bill, but the Bill has not yet been passed finally, because both the Houses have to agree to it, and technically speaking the Bill has not yet passed.

I shall now read rule 21D. It says :

“ After such Bill has been moved, if the Bill has already been referred to a select committee of the Assembly or to a joint committee of both the Chambers, no motion shall be made and no amendment shall be moved that the Bill be referred to a Select Committee.”

It is open to make a motion that it be referred to a *joint committee*. If a select committee or a joint committee has been appointed by the Assembly, it is not open to the Council to appoint another select committee, but it is open to appoint a joint committee. That, I take, is the meaning of those words. As I said, however, I am not asking for your ruling at this stage. But I would like you and the officers concerned to go into this point thoroughly, because otherwise it would mean that it is never open to the Upper Chamber to suggest that anything should be committed to a joint committee. I do not think that the Government of India Act or the rules intend to deprive this House of the power to move a reference to a joint committee. As I am not going to seek your ruling on this point, I shall fall back on the other course, and request Government to agree to refer this Bill to a select committee of this House. I have already made the points when I spoke on the first reading of the Bill—

The Honourable the PRESIDENT : The honourable mover is moving for the Bill being referred to a select committee. That would be under Standing Order VIII, 5. He can do so in the form of an amendment. I should like to have the wording of the amendment.

Dr. G. S. MAHAJANI : I have just handed it over.

The Honourable the PRESIDENT : I have now got the amendment of the honourable member to refer the Bill to a select committee, but I should like also to have the names of the members.

Dr. G. S. MAHAJANI : Instead of copying out the names, I have got the official list of members and I have ticked off the names of the members whom I intend to be on the select committee.

The Honourable the PRESIDENT : It would be better if the honourable member gave me the whole thing.

Dr. G. S. MAHAJANI : Will you give me time for it ?

The Honourable the PRESIDENT : Yes. For the moment, with a view to save the time of the House, it would be better if the honourable member Dr. Mahajani would read out the names and then give me the same in writing.

Dr. G. S. MAHAJANI : Yes, Sir. The names are :

Sir Currimbhoy Ebrahim,

Dr. K. A. Hamied,

Mr. S. C. Joshi,

Khan Saheb A. A. Khan,

Mr. Shantilal H. Shah,

Dr. P. G. Solanki,

Mr. N. D. Deodhekar,

Mr. R. G. Soman, and

the Mover, that is, myself.

One-half will form the quorum and the report to be submitted day after tomorrow.

The Honourable the PRESIDENT : It would be better if the honourable member specifies the number that he wishes to form the quorum.

Dr. G. S. MAHAJANI : Very well, Sir. The number of quorum will be four.

Question proposed.

Dr. G. S. MAHAJANI : Sir, if you will permit me, I shall offer a few remarks on my amendment for the select committee.

The Honourable the PRESIDENT : I have no objection.

Dr. G. S. MAHAJANI: Sir, I do not want to make a long speech, but I want to appeal to Government that they should take advantage of the suggestions which were thrown out by the honourable Muslim member Khan Saheb A. A. Khan and they need not despair of arriving at a solution which will be agreeable to all the sides of the House. The principle of joint electorates and territorial electorates is the ideal of all, and it is only because an agreed solution could not be found that Government have introduced this optional clause. Government will now see that even with this optional clause the conciliation of the Muslim members, the members that are primarily concerned, is not to be had. Yet, in the select committee, I now hope that it would be possible for my Muslim friends to accept the principle of joint electorates with the particular provision that the candidates to be elected must secure a certain percentage of votes from their own community. Here is an offer from a Muslim member for co-operation, not for the optional clause, but for joint electorates, and I would like to point out also that it would not be wise of the Government to deprive the members of this House of what little good that they can do by offering their suggestions. I do not think that Government are losing anything by postponing the passing of this Bill by a day or two. I know they have got a majority and they can easily get Bills passed, but if they refused to accept this very innocuous suggestion of referring this Bill to a select committee, it will only mean that they want to rush measures through and that they do not want to accept even the reasonable suggestions that are coming from this side of the House. I tried to have negotiations when the first reading was before the House with honourable members opposite, and I did not think that they would oppose my motion for a select committee. However, now I understand that they are opposing it. I would request them not to rush in things simply because they have a majority. They are losing nothing if they accept this motion of reference to a select committee.

Now that I learn that it is their mandate to oppose my motion, I must ask Government: why should this House be reduced to the position of a cipher only? During the last year no member of this House was ever appointed on the innumerable committees that have been appointed. Government have even tried to rush things in this House by giving an eleventh hour notice, and I remember on one occasion that my honourable friend Dr. Solanki had to move that the consideration of a certain Bill should be postponed to the next day. Now, Sir, I am not complaining against Government—I know they have got a volume of business to get through; but here is a matter which has caused widespread agitation and discontent in the province and they would much lessen it by accepting this amendment. Therefore, with all the sincerity I command, I commend this motion for the acceptance of this honourable House.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, I would also join in the appeal made by my friend Dr. Mahajani and request the Honourable Ministers to consider this that they do not go in a hurry, because the idea underlying is a good

[Professor Sohrab R. Davar]

one i.e. to see if you can bring about a compromise by which the sister communities and particularly the Mahomedan community may be brought in a more amenable state of mind and a more friendly state of feeling, so that that ideal for which I have pleaded in my original speech, that is, unity of the Muslims and the Hindus, may be achieved. I am thus from that greater standpoint or higher ideal appealing to them, because their refusal and laying down a bureaucratic answer to the effect that "we cannot come to any compromise" is unfortunately liable to create great misunderstanding and which is likely to be made considerable capital of by people who are interested. I would thus appeal to them that there is nothing lost if we could meet in a Select Committee and decide this issue, if there is a scope for compromise.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira): Sir, I oppose the amendment. As the Muslim members, some of whom my honourable friend has proposed for appointment on the Select Committee, have left, we do not know whether this proposal, this amendment, is acceptable to them and at the same time, they have left with the clear idea, with the clear intention, that they will have nothing to do with the future progress of this Bill, then, under the circumstances, I should think that this amendment is out of place now and the Bill may be proceeded with as proposed by the Honourable the Minister for Local Self-Government.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat): Sir, a Select Committee is usually appointed to facilitate the consideration of amendments, if the number of amendments is so large that it will take unduly long time of the House. As it is, we have not got a single amendment and I do not know what the Select Committee is going to do unless there are any concrete proposals before it. Therefore, if there are no amendments, I do not know what the Select Committee is going to discuss. If however, as Professor Mahajani has said, there are any amendments which could be made and if he feels that the other honourable members who have walked out are likely to come back, it is open to them or to him to move any amendments at the second reading of the Bill. The Select Committee is not the proper procedure to be adopted if there is only one amendment to be made; that could very well be done here.

The other point was: why rush? This is not a new point; it was discussed when the Local Boards Bill was before the House. Since then more than a month has passed. It cannot be said that this is a new point and there has not been sufficient time to consider.

I, therefore, submit that if there are any amendments they may be moved at the second reading and a Select Committee is unnecessary.

The Honourable Mr. L. M. PATIL: Sir, I oppose the motion moved by the honourable member Dr. Mahajani. Attempts were made during

[Mr. L. M. Patil]

the last session to come to some agreement and they have failed. So I think no useful purpose will be served if this Bill is sent to a Select Committee. Therefore, I oppose the amendment.

Mr. N. D. DEODHEKAR : I have given an amendment, Sir.

The Honourable the PRESIDENT : Yes, the amendment is that the Honourable Minister in charge of the Bill should be a member of that Select Committee. I now put the amendment.

Dr. G. S. MAHAJANI : Have I no right of reply, Sir ?
(*Interruption.*)

The Honourable the PRESIDENT : The honourable member may proceed.

Dr. G. S. MAHAJANI (Poona *cum* Satara) : Sir, I am not at all convinced by what the honourable member Mr. Shah has said on the floor of this House two minutes before, because five minutes ago he had a different opinion. (*Interruption.*)

Sir, we had tabled so many amendments last time when the other Bill was before the House. On each of the amendments we made long speeches and on the particular amendment bearing on joint electorates I quoted extensively, not from oft-quoted reports, but from the Ceylon Commission, from which the conditions in Ceylon and India were seen to be exactly the same. I pointed out how joint electorates were introduced in Ceylon in exactly the same circumstances, not very long ago. In the reply that I received, there were no arguments advanced, but we were simply told that we were not in Ceylon. That was the only reply that we obtained the other day. On a previous day, when the resolution on titles came in, we were taken to Canada and Australia, but on this question when we referred to Ceylon, we were told that we were not in Ceylon. Each amendment, Sir, that was introduced on the floor of this House met with that fate. I thought, therefore, that a better course would be to refer the matter to a select committee, where we can talk across the table. When we make suggestions on the floor of the House, there is perhaps a certain amount of artificiality about the atmosphere, but it is possible to come to an agreement if we talk across the table in a Select Committee.

The Honourable Mr. MORARJI R. DESAI : On a point of order, Sir, I think there is no right of reply under Standing Order V, 9 (3). This is establishing a wrong practice. I have no objection if the President allows it.

Dr. G. S. MAHAJANI : I am in the hands of the President.

The Honourable Mr. MORARJI R. DESAI : There is Standing Order V, 9 (3) which says that there is no right of reply. It says :

"The mover of a motion, but not the mover of an amendment other than an amendment of a Bill or of the Standing Orders, may speak a second time"

(*interruption.*)

The Honourable the PRESIDENT: I should rather like that the honourable member may be allowed to argue and draw my attention to it, and I will consider it. It cannot be summarily refused or rejected. The Honourable Minister was interrupted. When an honourable member who speaks is interrupted, he sits down. The Honourable Minister can go on.

The Honourable Mr. MORARJI R. DESAI: Standing Order V, 9 (3) says that the mover of a motion, but not the mover of an amendment other than an amendment of a Bill or of the Standing Orders, may speak a second time on the conclusion of the debate by way of reply. Under this Standing Order, as this is an amendment of a motion for the second reading, I do not think that the honourable member has the right of reply.

Mr. S. C. JOSHI: On this point of order, may I refer to Standing Order VIII 5? Clause (1) of it reads:

"If the first reading of a Bill is passed, the member in charge may make one of the following motions in regard to the Bill, namely:—

(a) that it be read a second time either at once or on some future day to be then stated; or

(b) that it be referred to a Select Committee composed of such members of the Council as he may specify in his motion;"

Then clause (2) says:

"Any member may make a motion as aforesaid by way of amendment."

My submission is [that this is a motion. The wording is "may make a motion," and it being a motion and not an amendment, the member who makes the motion for referring a Bill to a select committee will be entitled to a right of reply under the Standing Orders. It is not an amendment in the sense in which the word "amendment" is used where the right of reply is not given to the mover of an amendment.

The Honourable Mr. K. M. MUNSHI: This is rather a curious argument; this is also moving an amendment; which means it is a motion for amendment. What is mentioned in Standing Order V 9(3) is very clear. It says "The mover of a motion, but not the mover of an amendment other than an amendment of a Bill or of the Standing Orders." The honourable member is not moving an amendment of the Bill. He is moving an amendment to the motion of the Honourable Minister that this Bill be read a second time. Therefore, Standing Order V 9 (3) would apply.

The Honourable the PRESIDENT: The motion before the House is that the Bill be read a second time, and it is to that motion that the amendment is moved, that the Bill be referred to a select committee. It is not an amendment to a Bill. It is an amendment to the motion for the second reading of the Bill.

Therefore, I think it is not within the scope of
 4-30 p.m. Standing Order V, 9 (3) and I do not think that there can be any right of reply—second speech. But, at the same time,

[The President]

as I find that the honourable member Dr. Mahajani has got something to say, I am quite willing to allow him to reply in brief to the discussion.

Dr. G. S. MAHAJANI : Sir, I am grateful to you for the consideration shown by you, and I shall also relieve you of the burden by saying that I have no more remarks to offer.

Question put. The House divided : Ayes, 6 ; Noes, 11.

Division No. 4.

Ayes.

DAVAR, Professor SOHRAH R.
DEODHEKAR, Mr. N. D.
JOSHI, Mr. S. C.

MAHAJANI, Dr. G. S.
SOLANKI, Dr. P. G.
VIRKAR, Mr. M. B.

Tellers for the Ayes : Mr. S. C. JOSHI and Professor SOHRAH R. DAVAR.

Noes.

ATAWANE, Mr. A. M.
BHOSLE, Mr. M. G.
DESAI, Mr. DADUBHAI P.
DESAI, Mr. NARSINGRAO S.
DESAI, Sardar Rao Bahadur CHAND-
RAPPA B.

GANDHI, Mr. RATILAL M.
HAMIED, Dr. K. A.
MERTA, Mr. CHINUBHAI L.
MERTA, Mr. HANSA JIVRAJ.
SHAH, Mr. SHANTILAL H.
SOMAN, Mr. R. G.

Tellers for the Noes : Mr. RATILAL M. GANDHI and Dr. K. A. HAMIED.

Question, "That Bill No. XI of 1938 be read a second time," put, and agreed to.

Bill read clause by clause.

Clause 1 (*Short title and commencement*) ordered to stand part of the Bill.

Clause 2 (*Amendment of section 10 of Bom. III of 1901*) ordered to stand part of the Bill.

Clause 3 (*Amendment of section 11 of Bom. III of 1901*) ordered to stand part of the Bill.

Clause 4 (*Amendment of section 27A of Bom. III of 1901*) ordered to stand part of the Bill.

Clause 5 (*Amendment of section 33 of Bom. III of 1901*) ordered to stand part of the Bill.

Clause 6 (*Amendment of section 9 of Bom. XVIII of 1925*) ordered to stand part of the Bill.

Clause 7 (*Amendment of section 10 of Bom. XVIII of 1925*) ordered to stand part of the Bill.

Clause 8 (*Amendment of section 37A of Bom. XVIII of 1925*) ordered to stand part of the Bill.

Clause 9 (*Saving*) ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

The Honourable Mr. L. M. PATIL : Sir, I beg to move that Bill No. XI of 1938 (An Act to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for certain purposes) be read a third time and passed.

Question, "That Bill No. XI of 1938 be read a third time and passed," put, and agreed to.

The Honourable the PRESIDENT : The Bill is read a third time and passed.

**BILL No. XII OF 1938 [A BILL TO REPEAL THE BOMBAY
SPECIAL (EMERGENCY) POWERS ACT, 1932.]**

The Honourable Mr. K. M. MUNSHI : Sir, I beg to introduce Bill No. XII* of 1938 being a Bill to repeal the Bombay Special (Emergency) Powers Act, 1932.

The Honourable the PRESIDENT : Bill No. XII is introduced.

The Honourable Mr. K. M. MUNSHI : Sir, I beg to move that Bill No. XII of 1938 being a Bill to repeal the Bombay Special (Emergency) Powers Act, 1932, be read a first time.

Question proposed.

The Honourable Mr. K. M. MUNSHI : Sir, I do not desire to make any elaborate remarks in regard to this Bill, but I will repeat what I stated in the Assembly that it is a curious coincidence that the Bill, the forerunner of which was introduced with a view to suppress the Congress movement, should be now proposed by the Congress Government to be repealed, and I have no doubt that the House will give its unanimous sanction to this proposed measure.

Mr. S. C. JOSHI : Sir, I congratulate the Congress Government on bringing this Bill, although they are rather too late. I would have expected the Congress Government to bring this Bill at an early date. I am sure it did not require any long time to draft this Bill as it is required for other measures. However, better late than never, and I am glad that the Government have brought in a Bill to repeal the Emergency Powers Act to which everybody in India was opposed. Of course, as I said, it would have been much better if the Congress

* Appendix 6.

[Mr. S. C. Joshi]

Government had brought this Bill at the time when the labour situation in the Bombay City and in Ahmedabad was somewhat difficult. It is only after the report of the Committee has been published and unanimously supported, that this Bill has been brought. Whatever that may be, I give my wholehearted support to this measure.

Mr. N. S. DESAI : Sir, I also congratulate the Congress Government on bringing this Bill. We all know very well the great havoc that the Emergency Powers Act created. I need not repeat all that and once again congratulating the Government I resume my seat.

The Honourable Mr. K. M. MUNSHI : Sir, I wish to offer only one remark in reply. My honourable friend Mr. Joshi reminds me of Oliver Twist who always wanted something more and something ever more. But my honourable friend forgets that since this Government came into office it has never passed a single order under this emergency law, and that ought to satisfy even him.

Mr. S. C. JOSHI : Then this may be allowed to stand even.

The Honourable the PRESIDENT : This reminds me of what Sir James Grigg said to the honourable member Mr. N. M. Joshi in the Central Assembly.

Question put, and agreed to.

The Honourable Mr. K. M. MUNSHI : Sir, I move that Bill No. XII of 1938 (A Bill to repeal the Bombay Special (Emergency) Powers Act, 1932) be read a second time.

Question put, and agreed to.

Bill read Clause by Clause.

Clause 1 (*Short title*) ordered to stand part of the Bill.

Clause 2 (*Repeal of Bom. XVI of 1932*) ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

The Honourable Mr. K. M. MUNSHI : Sir, I move that Bill No. XII of 1938 [A Bill to repeal the Bombay Special (Emergency) Powers Act, 1932] be read a third time and passed.

Question put, and agreed to.

The Honourable the PRESIDENT : Bill No. XII of 1938 [A Bill to repeal the Bombay Special (Emergency) Powers Act, 1932] is read a third time and passed. (*Applause.*)

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT : As regards Bill No. III of 1938, (An Act to provide for the release on probation of offenders), which has been standing over from the last session, I do not know whether the Honourable the Home Minister wishes to proceed with it or he wishes to take it up tomorrow. There are several amendments to the Bill and from the printed report I find that the last stage where we adjourned was that the second reading was passed and clause No. 1 also was passed. At clause 2 the adjournment motion came in and it stood adjourned.

The Honourable Mr. K. M. MUNSHI : Sir, I propose to proceed with the Bill now.

Mr. N. D. DEODHEKAR : Sir, may I suggest that we shall take it up tomorrow and finish it ?

The Honourable Mr. K. M. MUNSHI : Sir, as the select committee on the education Bill is going on, I am afraid it will be difficult for me to take up this Bill tomorrow ; otherwise I would have certainly met the wishes of the honourable members. We have still one and a half hour, and I suggest that we may go on with the Bill.

The Honourable the PRESIDENT : It seems to me that the Bill has stood for a long time and, if the Honourable the Home Minister is not very anxious, it can stand over for some days more, not till tomorrow but after the non-official business is over. It may be postponed for a week or so.

The Honourable Mr. K. M. MUNSHI : I have no objection ; but tomorrow it would be difficult for me to take up the Bill because of the select committee.

The Honourable the PRESIDENT : I think the honourable member Mr. Joshi perhaps thinks that the House is too thin for his amendments and members also may not like to sit late in the House. So, looking
5-30 p.m. to all, if it meets with the wishes of the members then it will not be tomorrow, it will have to stand over for a longer time.

The Honourable Mr. K. M. MUNSHI : For such time when there is work for the House. I do not want that other members, who are not present, should be denied the benefit of Mr. Joshi's amendments.

The Honourable the PRESIDENT : Government has allotted Wednesday for non-official resolutions. I have not yet received information about the other days. But assuming that Wednesday is the non-official day, we will take up this Bill on some other day when there is other official work. For the moment, I have received notice of the 13th only.

Dr. G. S. MAHAJANI : I suppose you could not say anything about the 14th ?

The Honourable the PRESIDENT: It is for the Government to say.

The Honourable Mr. K. M. MUNSHI: It will depend upon the number of Bills that come up. As this one is shunted to another day, it is difficult to say whether we meet on the 14th.

Dr. G. S. MAHAJANI: We wanted to make arrangements for Thursday.

The Honourable the PRESIDENT: In any event, if the Government can inform the House on Wednesday, then it would be proper to decide.

The Honourable Mr. K. M. MUNSHI: Then we will be also in a position to know whether certain Bills which are before the Assembly will be available for consideration by this House.

The Honourable the PRESIDENT: It would be better if the date is fixed looking to all the circumstances, so that the members may not have to wait for a long time.

The House then adjourned till 2 p.m., on Wednesday, the 13th April 1938.

Wednesday, the 13th April 1938.

The Council re-assembled at the Council Hall, Poona, at 2 p.m., on Wednesday, the 13th April, 1938, the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
BHOSLE, Mr. M. G.
CURRIMBHOY EBRAHIM, Sir
DAVAR, Professor SOHRAB R.
DEODHEKAR, Mr. N. D.
DESAI, Mr. DADUBHAI P.
DESAI, Mr. NARSINGRAO S.
DESAI, Sardar Rao Bahadur CHANDRAPPA B.
GANDHI, Mr. RATILAL M.
GUIDO, Mr. T. M.
HALDIPUR, Mr. S. R.
JOSHI, Mr. S. C.
KARANJIA, Mr. B. N.
KHAN, Khan Saheb A. A.
MAHAJANI, Dr. G. S.
MAKAN, Khan Saheb MAHOMED IBRAHIM
MARWADI, Mr. P. S.
MEHTA, Mr. CHINUBHAI L.
MEHTA, Mrs. HANSA JIVRAJ
PRADHAN, Mr. R. G.
SHAH, Mr. SHANTILAL H.
SOLANKI, Dr. P. G.
SOMAN, Mr. R. G.
STONES, Mr. FREDERICK
TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
VIRKAR, Mr. M. B.

The following Honourable Ministers were also present :—

The Honourable Mr. B. G. KHER,
The Honourable Mr. A. B. LATTHE,
The Honourable Mr. L. M. PATIL.

LEAVE OF ABSENCE : MAJOR SARDAR B. N. PATANKAR.

The Honourable the PRESIDENT: I have received a letter from the honourable member Major Sardar B. N. Patankar. It is dated the 10th April and is to the following effect:—

“Will you please excuse me for my inability to attend the adjourned session of the Bombay Legislative Council which is to begin on the 11th instant.

The urgency of the business will not possibly spare me to be away from here. I hope that my non-attendance will therefore be treated as leave and not as absence.”

I hope the House has no objection to the leave being granted.

Honourable MEMBERS: No objection.

The Honourable the PRESIDENT: Leave is granted.

RESOLUTION re : FACILITIES FOR INDIAN APPRENTICES.

The Honourable the PRESIDENT: As regards the resolution which is now before the House, there was considerable discussion on it in the last session and at the last stage Mr. Shah stated that Government would make some formal alterations in the resolution and possibly they would accept it. Since then, I have received an amendment, which in fact substitutes a new resolution for the old one, from the Honourable Minister for Local Self-Government. His amendment runs thus:—

“This Council recommends to Government to issue instructions to all departments of Government, semi-Government bodies, Municipal Corporations and Municipalities to insert in all contracts and agreements with all manufacturers and suppliers for the supply of stores, materials, machinery or services a clause to the effect that the manufacturers concerned and the suppliers concerned shall afford or procure, as the case may be, every facility to Indian apprentices for practical training in factories, workshops or offices, owned, managed, controlled or patronised by them so as to enable the Indian apprentices to acquire a full knowledge of the technique and work of their trade, industry, calling or profession.”

Mr. RATILAL M. GANDHI: Sir, I have no objection to accept the amendment—

The Honourable the PRESIDENT: But first let the Honourable Minister for Local Self-Government move this amendment.

The Honourable Mr. L. M. PATIL: Sir, I beg to move an amendment to the resolution moved by the honourable member Mr. Ratilal Gandhi.

The Honourable the PRESIDENT: I have already read it to the House and the Honourable Minister need not repeat it.

The Honourable Mr. L. M. PATIL: Sir, in order to make the resolution more comprehensive and to give effect to the object of the original resolution in a proper manner, I have suggested this amendment.

The Honourable the PRESIDENT: Is the resolution now on the same lines as passed by the Assembly ?

The Honourable Mr. L. M. PATIL: Yes, Sir, it is.

Mr. RATILAL M. GANDHI: Sir, I have no objection to accept the amendment moved by the Honourable Minister for Local Self-Government. As a matter of fact, while I was moving this resolution, I thought that the resolution, as it was worded, required certain changes, and I am very glad to know that after the discussion that has taken place in the Legislative Assembly, the Honourable Minister has thought it fit to move an amendment to my resolution. Sir, I am very glad to accept the amendment as moved by the Honourable Minister.

Mr. B. N. KARANJIA: Sir, I also was a party to the resolution and I also moved it. May I know from the Honourable Minister what difference his amendment makes in the former resolution that was moved by the honourable member Mr. Ratilal Gandhi and myself ? I do not find any difference so far as the summary of the resolution goes.

The Honourable the PRESIDENT: I think the Honourable Minister has stated that the substance is the same but this is more comprehensive. The second reason is, if the resolution as is proposed by Mr. Gandhi is passed, there will be two resolutions on the same subject, one already passed by the Assembly and the other of Mr. Gandhi passed by this House, and specially as the two resolutions relate to the same subject, there should not be any difference in the language.

Mr. B. N. KARANJIA: Sir, may I know which resolution the Lower House has passed, the amended one or as the original one as was proposed by the honourable member Mr. Gandhi ?

The Honourable Mr. L. M. PATIL: The resolution as passed by the Lower House was on the same lines as the amendment moved by me. The honourable member Mr. Gokhale moved a resolution and I gave an amendment similar to this.

The Honourable the PRESIDENT: So, the amendment to the resolution is as it is passed by the Legislative Assembly ?

The Honourable Mr. L. M. PATIL: Yes, Sir.

Mr. RATILAL M. GANDHI: Sir, may I just say a word by way of reply to my honourable friend Mr. Karanjia's point of information ? As has been remarked by the Honourable Minister for Local Self-Government, the amendment moved by him does not materially change the substance of the resolution. As a matter of fact, I had a talk with the honourable member Mr. Karanjia about the wording of this resolution and, if my recollection is right, Mr. Karanjia agreed with me that there ought to be some verbal changes.

Mr. N. D. DEODHEKAR *rose*.

The Honourable the PRESIDENT: The honourable member Mr. Karanjia only wanted to know what difference there was between the original resolution and the amended resolution. To that the Honourable Minister in charge replied that the amended resolution did not make any material change, but that verbal changes were made and it was made more comprehensive. Mr. Karanjia did not want any explanation more than this.

Mr. N. D. DEODHEKAR: I was not raising any point of order, but I was just going to request the Honourable Minister who has moved this amendment to explain how it is more comprehensive than the original resolution.

The Honourable Mr. L. M. PATIL: Sir, there are two main changes that have been introduced in the resolution by the amendment which I have moved. In the original resolution it is said that it will affect only the "suppliers", while in the amendment that I have moved I have added the word "manufacturers" also. It is really speaking the manufacturers who are in a better position to give facilities to the apprentices for training in different industries and trades. The class of the suppliers is limited. Moreover, the suppliers are not in such a position in every way as the manufacturers are to give the facilities for training apprentices.

The second change is that I have added the word "procure" after the word "afford". In the original resolution it is only "afford", but the suppliers can only procure facilities for training, until they have got their own factories. But that is not so in every case. The people who supply goods may not have their own workshops or factories. So, the only thing that they can do is to bring pressure on the manufacturers from whom they purchase goods and thus compel them to give facilities to the apprentices. Thus, it will be seen that I have made it more comprehensive by adding the word "manufacturers", because it is a larger class, and they are in a better position to give facilities for training. These are the two main changes which make the resolution wider.

The Honourable the PRESIDENT: There has been considerable discussion over this resolution on the last occasion. I do not know whether any other honourable member who did not take part in the discussion wishes to do so today. If not, I shall put the amendment to the vote. It is:

For resolution No. 1, the following shall be substituted, namely:

"This Council recommends to Government to issue instructions to all departments of Government, semi-Government bodies, municipal corporations and municipalities, to insert in all contracts and agreements with all manufacturers and suppliers for the supply of stores, materials, machinery or services a clause to the effect that the manufacturers concerned and the suppliers concerned shall afford or procure, as the case may be, every facility to Indian apprentices for practical training in factories, workshops or offices, owned, managed, controlled or patronised by them so as to enable the Indian apprentices to acquire a full knowledge of the technique and work of their trade, industry, calling or profession."

Question put, and agreed to.

The Honourable the PRESIDENT: Then there are two amendments which were moved on the last occasion, one by Dr. Solanki, to add the word "Indian" before the word "non-Indian". That is covered by a portion of the amended resolution now passed. There was another amendment by Dr. Mahajani, for the words "non-Indian suppliers concerned" to substitute the words "suppliers concerned, Indian and non-Indian". As that is also covered by the amended resolution now passed, it falls through. I shall now put the last amendment as a substantive resolution.

Amendment put as a substantive resolution, and agreed to.

RESOLUTION re : CONTROL OF THE PROFESSION OF MIDWIVES.

The Honourable the PRESIDENT: The next resolution is the one standing in the name of Mr. Karanjia, as follows :

"In view of the fact that provisions regarding midwives in the Bombay Nurses, Midwives, and Health Visitors Registration Act of 1935 are inadequate to meet the conditions of the City of Bombay, this Council recommends to Government to introduce at an early date necessary amendments to the said Act to provide for the control of the profession of midwives by the Municipal Corporation and for measures leading to the prohibition of such a profession by unqualified women with the necessary safeguards to protect the latter class in practice at present and with the required provisions to provide practical instruction to indigenous *daïs* and their registration until such time as the trained and registered profession of midwives is financially accessible to all classes of people."

This resolution was also discussed on the last occasion and then there was a motion for adjournment on the ground that the honourable member wished to hear the views of the Honourable Minister for Health and it stood over. Today also I find he is unable to come just now. Possibly he may be able to come a little later on. He is engaged in the Assembly. If the other members desire to continue the discussion on the resolution just now, the discussion can continue, or if they desire that it should stand over for the moment till the Honourable Minister is able to come, it can stand over.

Mr. B. N. KARANJIA: The Honourable Minister in this connection told me that he has prepared a statement and that can be read out by the Parliamentary Secretary (Mrs. Hansa Mehta.) If that statement can be made to the House, I think further discussion could be obviated.

The Honourable the PRESIDENT: The resolution has been moved and discussion has already taken place on it. The statement can be read.

Mrs. HANSA J. MEHTA: Sir, I do not know about any statement to be read. The Honourable Minister has asked me to speak on his behalf.

Mr. B. N. KARANJIA: I understood from him personally that a statement would be made.

Mr. N. D. DEODHEKAR: As the Parliamentary Secretary is authorised to speak, we would like to hear her.

Mrs. HANSA J. MEHTA: If there is no other member wishing to speak, I will have to reply to what Mr. Karanjia has said.

Mr. B. N. KARANJIA: If that is so, the resolution can be put to the vote and passed.

The Honourable the PRESIDENT: In view of the position today, I would rather that the discussion continues just now and any honourable member who desires to continue the discussion may do so now.

Dr. P. G. SOLANKI: Sir, this resolution was overdue. The midwives, nurses and health visitors ought to have been given regular training in the past, and the relief which is given to the women at large in the Bombay Presidency and in the city of Bombay itself should have been very much welcome. Even though it is late, this resolution is welcome. What I want to bring to the notice of this House is the particular point of the present midwives who are known as *dais* and who have been carrying on the profession for 25 or 30 years. They have been instrumental in giving relief to the lying-in patients during their labours and they have been instrumental in giving birth to thousands of children. There might be cases of some unhappy accidents, but on the whole the results were not so disastrous as people and particularly the modern qualified medical men are apt to exaggerate. Sometimes I have seen that experienced, old *dais* are much more confident of their work than the newly trained nurses and midwives. Many times these newly trained nurses make so much fuss about even ordinary labour cases, but these old, experienced *dais* go about their work with composed mind. They allow the course of delivery to run its own course. Even the doctors and nurses and midwives who are trained allow the delivery case to take its natural course, but there are some fussy people in the profession who want to show off their knowledge. They bring a lot of appliances and medicines to show to the relatives of the lady their knowledge of midwifery. I would not like to do harm to these poor, old, experienced *dais*. I do not want them to be deprived of their profession which they have been carrying on for a long time and in which they are well experienced. My suggestion is that the Government, in finally considering this resolution, should not be very stringent or strict by laying down certain rules against these practising *dais* who will be deprived of their profession if they are not allowed to practise, and they will be thrown overboard. Similarly, I would put down some time limit for these experienced *dais* to pick up certain up-to-date techniques in midwifery by training themselves. As regards the junior *dais* who have recently entered this profession, they should be given regular course of training which they can pick up for the kind of work in which they aspire to be experienced.

[Dr. P. G. Solanki]

These are my two suggestions and I hope the honourable mover of the resolution as well as the Government will give thought to these two suggestions.

Mr. B. N. KARANJIA : On a point—

The Honourable the PRESIDENT : Is it on a point of information ?

Mr. B. N. KARANJIA : Yes, Sir. I have already said in my speech that seven years' time should be given to these unqualified *dais* to become qualified.

Dr. P. G. SOLANKI : You have said that ; Government have not said that.

Mrs. HANSA MEHTA *rose*.

The Honourable the PRESIDENT : (To Mrs. Mehta) You have spoken once. I am trying to see that if no other member is now going to speak on this resolution, then the honourable the mover of the resolution has got a right of reply with a right of further reply to the Honourable Minister. The Honourable Minister is not here at the moment. So I would rather that the honourable mover gives the reply now and the final reply will be given on behalf of Government by the Parliamentary Secretary.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District) : Sir, as I have already observed, when the Bombay Municipality wanted to have this sort of Act, Government turned down their proposal. Then, when again the Municipality wanted to have that legislation enacted, Government said that they were going to do it. So, the proposal went from pillar to post and post to pillar. It is now high time that this Government takes up this question and passes the necessary legislation. That is my prayer.

As regards the grievances pointed out by the honourable member Dr. Solanki, I may say that perhaps the honourable member does not know that with the unqualified midwives or *dais* the profession is almost a hereditary one. I believe he knows what a large number of deaths are caused by these unqualified *dais* and those caused by the trained nurses, I believe he will agree with me that such an Act should be on the statute book. Then he says that a measure of this kind would cause great hardship to the unqualified *dais* who are already following this profession. In their case, we want to give them seven years' time for being trained up. Of course, new unqualified *dais* will not be permitted to practise.

Dr. P. G. SOLANKI : What about the old ones ?

Mr. B. N. KARANJIA : They will be given seven years' time to become qualified and if they do not qualify within that period, their names will be struck off the register.

Sir, in my observations I have said everything and I think this resolution commends itself to the House. I believe such a measure is necessary in the interest of the women-folk.

Mrs. HANSA J. MEHTA (Bombay City *cum* Bombay Suburban District): Sir, on behalf of Government, I may inform the honourable member (Mr. Karanjia) that Government are in fullest sympathy with this resolution, but since the execution of the provisions of the Act rests with the Bombay Municipal Corporation, it should be first passed by the Municipal Corporation before Government would like to give their assent. I may also inform the honourable member (Mr. Karanjia) that Government would be very pleased to give their assent if such a resolution were to be passed by the Bombay Municipal Corporation.

Mr. B. N. KARANJIA: I have nothing to do with whether the Municipal Corporation passes it or not, or takes any responsibility. I can only point out to the Parliamentary Secretary, Mrs. Mehta, that this resolution has been moved in this Council and it is the duty of the Government to take the initiative in the matter. In the past, everything possible was done by the Municipal Corporation, but the Government turned down their proposal. Now you know it is not my business to go to the Corporation and ask that such a resolution should be passed. It is for the

2-30 p.m.

Government—

Mr. SHANTILAL H. SHAH: On a point of order, Sir.

The Honourable the PRESIDENT: The honourable member has got to say something on the point made; he is not making another speech. He is explaining that it is not for him but for the Government to go to the Corporation. I do not think he wants to say anything more.

Mr. B. N. KARANJIA: Sir, my point is this that I have moved the resolution in this Council. If the Council thinks that it is in the interest of the City, they may pass it; otherwise, they may throw it out. It is not my business to go to the Corporation or to anybody. I strongly recommend the House to pass such a legislation so that this unqualified midwifery goes out.

Resolution put, and agreed to.

RESOLUTION re: PREVENTION OF SPECULATION ON THE STOCK EXCHANGE.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, I beg to move:

"This Council recommends to Government to take immediate steps to give effect to the recommendations of the Morrison Committee on the working of the Bombay Stock Exchange or Share Bazaar known as the Native Share and Stock Brokers' Association with a view to prevent effectively speculation and over-dealing on the said Exchange, both by the outside public and the brokers *inter se*, and to consider the advisability of undertaking legislation, if necessary, for introducing the margin system of dealing on the said exchange for forward or *saida* transactions as recommended by the Morrison Committee."

[Professor Sohrab R. Davar],

Sir, I gave notice of this motion in the beginning of February, somewhere in the second week, and since then I am very happy to find that the Government have not been idle at all and that they have taken certain very useful and necessary steps in that direction. I also find that a set of rules, which it was in the power of the Government to formulate under the Act as it is at present, were formulated and presented to the Stock Exchange authorities and after due deliberation they have been accepted and I also find that representations of the exchange authorities on certain rules have been considered sympathetically and even though in one case the Government thought that there was no point in the Stock Exchange Authorities' views, they have gone so far as to concede the view to watch how the experiment works. So that there is much less left to be done by me except on the other issue, namely, that the Government also stated in their communique of the Finance Department dated 15th March 1938 to the effect that there are—

The Honourable the PRESIDENT : Is the honourable member moving the resolution ? In that case, I will read it first.

Question proposed.

Professor SOHRAB R. DAVAR : Sir, the other issue is as the Government make out in the communique, as I said, of 15th March 1938 in the resolution No. 2902. There are five points on which they contemplate legislation and out of those five points there are two points which they quite rightly and correctly describe as those involving no difficulty on principle, but in their opinion the practical side required consideration as the issues were rather complicated. I quite agree with them there also. I personally feel that these are points on which considerable care and caution will have to be exercised, as well as investigation made, and even expert opinion will have to be sought with a view to arrive at a correct solution. These two points are the introduction of a compulsory system of margin and the abolition of blank transfers.

I shall now take up, Sir, the first point, namely, the compulsory introduction of margin, which, in my resolution, I have urged the Government to kindly consider and they, I am glad to say, are considering same carefully. In connection with this margin system, no doubt,—

Mr. RATILAL M. GANDHI : Just on a point of information, if you do not mind, Sir. In view of the communique to which the honourable member is making reference, is it necessary now to press this resolution ? I think the honourable member, in support of what he has to say, is making a reference to the communique and the Government have, up till now, done what is required to be

[Mr. Ratilal M. Gandhi]

done by this resolution. I should, therefore, say that it is not at all necessary to press this resolution.

The Honourable the PRESIDENT: The honourable member may proceed as it is for him to decide.

Professor SOHRAB R. DAVAR: I was speaking on the margin. I hope, Sir, I will not be interrupted so frequently, as it necessitates repetition.

The Honourable the PRESIDENT: I am sorry the honourable member was interrupted. I thought it was a point of order or a point of information.

Professor SOHRAB R. DAVAR: With regard to the margin system, the Morison Committee has already suggested the lines along which the margin system may be considered as will be noticed in its report. In paragraph No. 30, they say that they have such a scheme as will impose (1) a percentage margin on the initial bargain price, (2) an additional percentage margin on the make-up price at the first settlement, if the security is carried over and (3) further additional percentages as supplementary margins at each of the following settlements. I have no doubt that this suggestion is receiving the attention of my friends on the opposite side and I would also draw their attention while they consider this, as they happen to be in agreement with my proposal, to carefully study the legislation on the margin system as introduced in the United States of America. They have an Act called the Securities Exchange Act of 1934. It was introduced in the year 1933, amended later in the year 1934 and has been working for over four years. Sir, the considerable experience that has been gained in the United States of America in connection with the working of the said Act will be of great assistance to the Honourable Minister concerned. Of course, when I am citing this Act, I am not forgetting that in the United States of America they have not got the forward system which we have here. They have, what they call, the day to day settlement, that is to say, the transactions of a particular day must be closed the very evening of that day. But in spite of that, dealings similar to the *vaida soudas* take place there with the help of certain financial arrangements. Such dealings used to take place long before this Act was passed. There was before the passing of this United States of America Act a tremendous and wild speculation going on on the Stock Exchange of New York at Wall Street and it was considered that legislation was necessary to check this wild speculation, or outbursts of wild speculation at intervals. Such outbursts are unfortunately noticed on our Bombay Stock Exchange also and thus there is a parallel between the conditions prevailing at these two centres.

This American Act bristles with penalties and even with criminal punishments for the violation of various Enactments and by such

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a stringent measure speculation is sought to be brought under control. I would therefore suggest the Honourable Minister concerned to consult experts in America or in Europe as this question is bristling with technical difficulties and if the Minister is able to devise a method by which on the Stock Exchange of Bombay the margin system could be introduced. I have no doubt that not only he will be able to largely check wild speculation but also to protect innocent people who have a small amount of money and who go to the market and speculate. Thus he will be able to gradually eradicate the evil of wild speculation. That was the predominant object with which the American Act was introduced, I am quoting from a book written by an expert—

The Honourable Mr. B. G. KHER: May I know the name of the author?

Professor SOHRAB R. DAVAR: The book is entitled "Securities Exchange Act, 1934", analyzed and explained by Charles Myer of the New York Bar and the publishers are Franks M. Fitch, Financial Publishers, Fitch Building, 138, Pearl Street; 102, Water Street, New York.

Mr. N. D. DEODHEKAR: What is the price, please?

Professor SOHRAB R. DAVAR: The price is not given and I think the Honourable the Prime Minister is not particular about the price.

I have noted down the three primary objects of this Act according to this author and they are as follows:—(1) regulating credit in security transactions and limiting speculation; (2) prevention of unfair practice on security markets; and (3) making public adequate information and discouraging of the unfair use by insiders of any such information which is not made public.

The author also states that the main object of the Act was to prevent ruin of men with small finance, or limited finance, who come to the Exchange and speculate far beyond their reach and are repeatedly ruined. This is exactly a parallel to the position which prevails on our Exchange, and I have no doubt that the Honourable Minister with the assistance of experts will be able to evolve a system suitable to our conditions.

The Morison Commission goes further and suggests that in case, after due consideration of the whole problem, the Honourable Minister comes to the conclusion that the margin system was not practicable, then he may think of compulsorily reducing the *raida* to a fortnightly *raida* instead of a monthly *raida*. No doubt a fortnightly *raida* will not prevent speculation altogether, but naturally as the period is shortened it will reduce the scope for speculation. In London they have the fortnightly settlement and, if that is introduced here, the capacity of

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the people to speculate will be, to a certain extent, curtailed. But this suggestion made by the Morison Commission is made as an alternative, and they particularly emphasise that. This is one of the important points to which I wish to draw the attention of the Honourable Minister.

Then I will take up the second point on which the intervention of legislation is contemplated and that is the prohibition of the use of blank transfers. This question has been the bone of contention for many years and Government after Government in the past have tried repeatedly to introduce a prohibitory legislation of some sort or other against the use of blank transfers. The mercantile community has been repeatedly consulted and naturally it has put forward various substantial objections. I will deal with those objections and I will suggest a way in which perhaps a remedy may be found. The mercantile community's objection is on a question of principle. No doubt by stopping blank transfers for Stock Exchange purposes, you will go a long way in checking speculation, but as against that a large body of honest merchants may be injured. When a merchant wants financial accommodation from a banker he goes and deposits a large quantity of share certificates with a blank transfer, and the accommodation is either by an overdraft on his current account or by a loan. In case blank transfers are prohibited the shares would have to be transferred to the bank's nominee and the stamp duty will have to be paid which will be an additional expense to interest paid for the loan. The voting power on shares would be lost. Perhaps the last named can be controlled by mutual arrangement to the effect that the votes may be cast according to the desire of the man who borrows on such transfers to the bank's nominee. But the greatest difficulty in this arrangement is this. Supposing a merchant, holding a large quantity of shares in one of the companies goes to a bank and says "I want a lakh of rupees"—his credit in the bazaar is rather high and the other merchants do not know that he is at present hard-pressed for financial accommodation—the banker says "Well, according to the law you must now transfer these shares to my nominee." Generally, this nominee is the bank accountant, or an assistant manager or some one of that type and the merchant transfers his share to one of them. We all know that the Register of Members is open to the inspection of anybody on payment of a small fee. If a rival in trade of that merchant who may be on his heels and may look into the Register of Members, or someone, who goes to inspect the Register of Members for other purpose, comes across the entry showing that the said merchant had transferred shares of 2 lakhs from his name to the Bank, the matter would leak out. This might injure if not actually ruin the merchant in his financial position, though he may be financially quite sound. If, therefore, the Honourable Minister could devise a plan in consultation with experts, by which blank transfers for the purpose of speculation could be done away with whereas blank transfers may be permitted in case of *bona fide* banking transactions they will have solved this much vexed problem. These are,

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Sir, the two items to which with great respect I draw the attention of Honourable Minister. As however the principle of my resolution is accepted, I have nothing further to say. However, I should like to hear what the Honourable Minister has to say on the matter.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I wholeheartedly support the resolution moved by my honourable friend Prof. Davar. I do not want to repeat the arguments which he has advanced. On account of speculation, many good families have been ruined. In other countries the margin system is enforced, and if the margin system is introduced here I think it will to some extent put a stop to the heavy speculation which is now going on in the share bazar. I also think that if a settlement every seven days is made compulsory by law, that would also stop to a great extent the heavy speculation that is now going on. As regards blank transfers, what happens now is that, supposing I sell to one party, fifty times the transaction is going on and still there is no transfer made and heavy loss in revenue in stamp duty. That adds to the heavy speculation which is going on. If apart from the system of margins, blank transfers are done away with, I think it would put a check to the speculation now going on. All the arguments which have been advanced by my friend are absolutely correct and his suggestions are in the interest of the community. Therefore, I wholeheartedly support the resolution.

Mr. RATILAL M. GANDHI (Bombay City *cum* Bombay Suburban District): Sir, I must in the first place observe that I am in entire agreement with the spirit of the resolution moved by my friend Professor Davar. Without going into the specific points raised by the honourable mover,—and these specific points are about the introduction of the system of margins and the abolition of blank transfers,—I would like to make my remarks in general about the speculative trend that now exists not only in the Native Share and Stock Brokers' Association but also in various other speculative markets of commodities. I am, to a certain extent, connected with some of the markets in Bombay which are carrying on some sort of speculative trade or some sort of forward business, to put it rightly, and my experience of this speculative trend of business that has taken hold of various trades in Bombay as well as elsewhere is so horrible and so terrible that it is desirable, and it will be in the interests of not only the traders in general but of the general public as well to put a stop to it.

In regard to the various kinds of checks that are being advocated to check speculation, I had an opportunity to study some of them in the literature that I get as a member of the Futures Committee of the International Chamber of Commerce which represents something like 40 countries.

The Honourable the PRESIDENT: I would like to draw the attention of the honourable member to the fact that if the Minister in charge

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accepts the principle of the resolution, then the mover is prepared to allow it to drop. That is what I understood him to say. I do not wish to curtail discussion, but if after hearing the Honourable Minister he is satisfied, time will be saved.

Mr. RATILAL M. GANDHI : Thank you, Sir. I do not in the least desire to take any time of the House, and if the principle is accepted by the Government, I do not wish to proceed with my remarks in this connection.

The Honourable Mr. B. G. KHER : Sir, as the honourable member Prof. Davar pointed out, Government have already taken such steps as were immediately possible on the report of the Morison Committee. He was good enough to point out to the House Resolution No. 2902 of the 15th March on this important subject. As the resolution says, the recommendations fall into two groups, one consisting of those which can be implemented without legislation and the other those for which legislation is necessary. There does not seem to be any difference of opinion as to the desirability of checking speculation, by taking such measures, legislative or otherwise, whereby the Stock Exchange will not be the ruin of a number of poor and middle class people, with the temptations and the opportunities of indulging in very grave speculation, without any obligation to pay margins. The recommendations that involve legislation are by their nature very complicated. For instance, the introduction of the compulsory system of margins.

As the honourable member pointed out, there is also the question of the abolition of blank transfers, which are useful for other purposes, for the obtaining of legitimate credit for business purposes, as also for speculation. There are also the questions regarding the reservation by Government of the power to impose rules on the Association, the supersession of the Board of Directors in certain circumstances, the control by recognised associations of ready delivery contracts and the amendment of the definition of "ready delivery contract". These are the five points which can be dealt with only by means of legislation. We have already stated that Government are examining all these points, particularly the first two which are full of the most difficult and complicated considerations on their practical side. Government are examining them carefully and hope to announce their decision shortly. After this, Sir, as the honourable member admitted, there is no doubt about the Government being in agreement with the principle which the honourable member has in view in bringing this resolution. His resolution falls into two parts. The first is :

"This Council recommends to Government to take immediate steps to give effect to the recommendations of the Morison Committee."

Now, Sir, such steps as we could take, without resort to legislation, we have already taken. As regards such steps as do require legislation, we have announced by the resolution, which the honourable member

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was good enough to refer to, that Government are very carefully considering them. The honourable member himself says that they are difficult questions. So that, that disposes of the first part of his resolution.

The second part is about the suggestions that he made regarding what further things the legislation should take note of, namely, the introduction of the margin system for forward or *vaida* transactions and he also pointed out some other things. He was good enough to quote to us the American Stock Exchange Act of 1934 and the three objects which it has in view and which ought to be the objects of any legislation that Government introduces, namely, the regulating of credit, the checking of malpractices on the Stock Exchange and to prevent the ruination of poor people by being allowed to speculate to a very large extent. Now, Sir, as has been already pointed out, Government have already done all that they could immediately do, and as Government are doing what is necessary to be done in the way of introducing a legislation, I think the resolution has already served its purpose. As you were good enough to observe that it is not the intention of the mover of the resolution to press the resolution to a division if it is admitted that the subject is of such an importance that the Government will do all that is possible to be done, I think the resolution need not be pressed to a division.

This is what I, as the member not in charge of the Department, had to say and I have said it on behalf of Government. I am sure, if the Honourable the Finance Minister thinks that he can usefully supplement these observations, now that he is here, you, Sir, will permit him to do so although I have already spoken on behalf of Government on this resolution. (*After a pause.*) As the Honourable the Finance Minister does not think it necessary to say more than what I have already announced, I would request the honourable mover, who moved this resolution, to withdraw it.

Prof. SOHRAB R. DAVAR : I thank the Prime Minister for his very kind assurance and, under the circumstances, I take great pleasure in not pressing the resolution to a division. I, therefore, beg leave of the House to withdraw my resolution.

Resolution, by leave, withdrawn.

The Honourable the PRESIDENT : Then there are three resolutions which stand in the name of the honourable member Mr. N. S. Desai. He has written a letter to me today which reads as under :

"I have the honour to approach you with a request that out of 3 resolutions that are standing in my name on today's agenda, I intend not to move the first two, but the third only for which I seek your permission.

The Honourable the Prime Minister, when approached yesterday, expressed that he had no objection to bring the 3rd resolution.

I hope that you will kindly permit me to bring the 3rd resolution first and oblige."

[The President]

There are three resolutions and the third one, which the honourable member desires to move today, is about a separate administration province for the Karnatak area in British India. I think, in view of the recent discussions that have taken place in the Assembly, and if there is no objection on the part of the Leader of the House, permission may be granted and the honourable member Mr. Desai can move his third resolution first.

RESOLUTION REGARDING CREATION OF A SEPARATE KARNATAK PROVINCE.

Mr. N. S. DESAI (Dharwar *cum* Kanara): Sir, I stand to move Resolution No. 3 standing in my name. Sir, before proceeding to the main point—

The Honourable the PRESIDENT: The honourable member must read his resolution first; then I will have to put it to the House and then the honourable member can speak on the resolution.

Mr. N. S. DESAI: Sir, I beg to move:

"This Council recommends to Government to move the British Parliament and the Government of India to take immediate steps for a separate administration province for the Karnatak area in British India."

Question proposed.

Mr. N. S. DESAI: Sir, before proceeding to the main point, I think I may not be out of order if I try to give the House some history of my province. As all know, the province of Karnatak extended from the Cauvery to the Godavari and this province was ruled by Kadambas, Chalukyas and Rashtrakuts. All these were Karnataks and, so long as they ruled, this province was in a very flourishing condition. After the fall of Vijayanagar the misfortunes of Karnatak began. The Prince of Vijayanagar brought under one control the various parts of this province which were ruled by the Palegars or petty chiefs. But they began to quarrel between themselves and thus the foreigners found room to enter into the province. The Andhras from the South trespassed into our province and annexed a good portion of it to their country and along with that portion they took away our language, our culture and everything. In the same way, our Maharashtra brethren from the north also took away some part of our province and our language, culture and everything. So, whatever we have got now must be kept under lock and key so that others may not loot it. For that purpose, a separate province for Karnatak is very necessary. At present, our province is divided into so many divisions. Four districts are in the Bombay Presidency, three districts are in the Madras Presidency and the others are in the Mysore and the Nizam States. We cannot get those parts of our province which are in the Mysore and Nizam States, nor we wish so, but the districts which are in the Bombay and Madras Presidencies should be constituted into a separate administration province. And it is quite necessary

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because without it we cannot get all our wishes satisfied. Some of our districts are in Bombay and some are in Madras. They are Karnatakis and we are Karnatakis, but owing to this difference of administration we do not know each other. Not only we do not know—it is not a question of personal acquaintance but their language, though it is Kanarese and ours is Kanarese, there is a vast difference and our culture is different. Our dress and manners are also different. Such has become the state. Southerners are more or less adopting the customs of Andhras and the northerners are adopting the customs of Maharashtrians and so our old culture is gone, but thanks to the Congress movement, it is thinking of bringing the Kanarese-speaking people under one control. We assemble once or twice a year and we come to know that we are brothers and we know how many of our brothers are there, and they know how many are here.

Besides this, our wants are many. We want one university, we want one sea-port—though we have got a big sea-coast, we have not got a good harbour—and we have our forest grievances to be removed and besides we have to get an increase of irrigation and medical facilities. They have all been neglected up to this time and so for these facilities we want a separate province. When we get a separate province, we can work according to our own will.

Besides this I want to convince you by reading some references made by some great men previously. Sir Louis Rieu said :

“It is an admitted fact that the existing administrative provinces in British India have been formed somewhat haphazardly by somewhat fortuitous circumstances. The present provincial boundaries are largely mere accidents of history. There is no organic principle and no magnetic common bond that binds varied peoples of many of the existing provinces. The provincial divisions are haphazard, unsystematic, artificial and inconvenient. They do not follow any geographical, racial or linguistic principle, nor have they proved to have been administratively convenient and successful.”

In the famous Coronation Despatches of 1912, the then Governor General for India and the then Secretary of State for India declared :

“The time had come when India should be divided into autonomous provinces on a linguistic basis.”

So, in the same way Mr. Lionel Curtis has said :

“They are for the most part an artificial creation of a fraternal and highly centralised Government. It is of vital importance to consider now what the proper provincial units are to be. . . . units of language, race and religion are also important factors and language is the most important of all.”

Section 290 of the Government of India Act of 1935 also makes similar provisions for redistribution of provinces in India. Mahatmaji has also said on 21st September 1937 :

“The creation of Karnatak as a separate province cannot be resisted on merits.”

Besides that I want to show what the province will be. This province will be 35,000 square miles and its population will be more than 70 lakhs

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in number and its income will be Rs. 2,57,00,000 and its expenditure will be Rs. 2,08,00,000, and there will be a surplus of 48 lakhs. So financially this is quite possible.

I think I have shown that it is quite necessary and also financially it will be a yielding province and besides there are so many supports. There is mass support from the Karnatak and all the bodies there, local bodies, have passed resolutions, have sent them to Government, and in this way, the Karnatakis are very keen in having a separate province. So, I appeal to one and all, to the Government and the honourable House and the public to recognise the justice and reasonableness of our reasonable demand and help us in achieving our ideal at a very early date.

The Honourable the PRESIDENT: I have received an amendment from Sardar Rao Bahadur Desai to this resolution. I think this is a convenient time to move that amendment.

Sardar Rao Bahadur C. B. DESAI (Sholapur *cum* Belgaum *cum* Bijapur): Sir, I move an amendment to the resolution about a separate administration province for the Karnatak area in British India, moved by the honourable member Mr. N. S. Desai:

"This Council recommends to Government to communicate to His Majesty in Council the view of this House that, as early as possible, steps may be taken for the creation of a new Province, called the Province of Karnatak, by amalgamating all the predominantly Kanarese-speaking areas under one autonomous administration."

Question proposed.

Mr. N. S. DESAI: Sir, I accept the amendment.

* Mr. R. G. PRADHAN (Thana *cum* Nasik *cum* Ahmednagar): Sir, I rise to support this resolution. I do so not without some sense of regret because the prospect of losing our Karnatak friends is bound to be somewhat disconcerting to us. However, as the accredited representatives of the province of Karnatak, of the districts in the Karnatak, are very anxious that their districts, together with some districts in the Madras Presidency, should constitute a separate province, I think we, in the other parts of the Presidency or the Province, should raise no objection to the desire which they have felt so keenly.

The principle of the redistribution of the provinces of India on a linguistic basis has been accepted in the Government of India Act. That principle was carefully considered by the Joint Parliamentary Committee which carefully considered the Bill which now has been enacted into the Government of India Act, 1935, and the Joint Parliamentary Committee had accepted this principle of redistribution of the Provinces of India on a linguistic basis. So, on the ground of principle there should be no objection at all to the separation of Karnatak into a separate Province.

* Speech not revised by the member.

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We have, however, to consider and take into account some other considerations. In the first place, there is the financial consideration. If the administration of the separated Province of Karnatak can be self-supporting on a financial basis, the case for the separation will, of course, become stronger. That is, however, a question which can be thoroughly gone into by experts, by my honourable friend like the present Finance Minister. I am perfectly sure that he himself must have gone, at least provisionally, into the financial aspect of this Province, and I am looking forward with very keen interest to a statement from him, particularly on this financial aspect of the Province.

Then there is another point on which objection is raised by some people to the separation of these Karnatak-speaking districts into a separate Province. It has been contended that this demand for separation is an excessive demand, the effect of which will be not to strengthen the spirit of nationalism, which has been steadily growing in our country but to weaken it. The other day in a leading article in one of the Papers published in this City this very subject was dealt with and the objection was taken that this is nothing but separation *in excelsis*. Well, my answer to that objection is that no such consequence, no such evil consequence will necessarily follow if Karnatak is separated from the rest of the Province and is constituted a separate Province. It must be remembered that Provincial Governments are autonomous only to the extent of Provincial subjects. There are some subjects of national interest and national importance and they are being at present considered, and they will be continued to be considered by the Central Government, whatever may be the form of that Central Government. Whether we succeed in wrecking the Federal Scheme or we do not succeed in wrecking it, the fact remains that whatever may be the form of the Central Government, there will be many questions of vital and transcendent importance which will have to be taken into consideration and administered by the Central Government and in the Central Legislature the representatives of all the Provinces will meet together, will take stock together, will consult together and give their votes or their opinions together, whatever the opinions may be on these questions of national importance and significance. Therefore, I do not think that simply because one more Province will be added to the Provinces of India, the national spirit of the Indian people will, in the least, be weakened. I put it to those who have raised this objection: Has the creation of a separate Province of Sind weakened the national sentiment? Has the creation of a separate Province of Orissa weakened the national sentiment? Not at all. There is therefore no substantial ground of fear at all that simply because Karnatak also is made into a separate Province, the national sentiment and the national spirit of the Indian people will undergo the slightest deviation.

Sir, looking at this question from an idealistic point of view, from a theoretical point of view, I have often felt that the administration of the autonomous Provinces of India will become more efficient, will

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be more conducive to the efficient working of responsible Government if not only Karnatak is separated and constituted a separate Province, but if Gujarat is also created into a separate Province and the Marathi-speaking districts, not only the Marathi-speaking districts of the Bombay Presidency, but adding to them also the Marathi-speaking districts in the C. P. and Berar are formed into one separate Province on the basis of the Marathi language. I think the redistribution of the Provinces of India on the linguistic basis will be better, will be idealistic, and more efficient from the point of view of the efficient working of responsible Government. Sir, the great Parliamentarian, the great student of responsible Government once expressed the view that in India the working of responsible Government is not so easy, is rather difficult because they are not homogeneous and that the great bulk of the Provinces and the lack of homogeneity in the Provinces make the working of responsible Government more difficult than it would have been if the conditions had been different. Theoretical students of constitution have opined, and I agree with that view, that the working of responsible popular Government becomes more efficient, is better facilitated, if the Provinces are not too large and if the conditions in those Provinces are more or less homogeneous.

Looking at this question from all these broad points of view, I submit that in my personal view the separation of Karnatak is a demand which ought to be satisfied, and at the same time it appears to me that the Province of Bombay should be divided into the Karnatak Province, the Gujarat Province and the Marathi-speaking Province. So, both on the ground of principle, as well as on the ground that the separation of Karnatak will produce very desirable effect, I give my hearty support to this resolution and wish all good-luck to my honourable friends from Karnatak.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira): Sir, I heartily support the resolution moved by my honourable friend from Karnatak. We all thank the Congress for laying down as one of its principles that the Provinces should be constituted on a linguistic basis, and all the Provincial Congress Committees are based practically on this principle, and in this the Congress is not, in my humble view, wrong. Looking back, during the Moghul times the Provinces were administered on linguistic principles. We had Subhas for Gujarat, for Maharashtra and other provinces in India and these provinces were constituted on linguistic principle, and I think there was no obstacle or any difficulty in the evolution and progress of that culture to which this country has a right. But somehow or other, by accident, all sorts of districts and areas were added to Bombay which made it a heterogeneous Presidency, so much so that even a distant Province like Sind was added to Bombay, and for a time even Malabar was with Bombay. Malabar was separated perhaps long ago and Bombay is not worse for it. Recently Sind has been separated, and

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now it is the turn of Karnatak, and according to the decision of the lower Chamber also I think the Government will recommend to the Home Government for giving Karnatak a separate administration.

Arguments have been advanced against such separation, but I think these arguments, if looked at from the point of view of Western civilisation, are no arguments at all. Look at the German Federation which included even tiny States. Only Prussia was a large State, but some were hardly of the same area as our smaller districts or even talukas. But Germany flourished, and not only flourished but has contributed to the civilisation its own share, more than its own share. Similarly, in the case of the United States also, when we look to its history, we see that every State is governed from its own standard, and even the laws in many of the States are different from those of other States. Still the United States holds together and no difficulty has been experienced up to now for the advance of that civilisation with which we are all acquainted. So, if it holds good in the West where language is the same, why should it not hold good in this country, where the language is different? Where the religion and language are the same, they have tiny States. Why should there not be such an arrangement in this country where the language differs?

I think if my honourable friend Mr. Pradhan's wishes are carried out, perhaps we would be gainers—not gainers exactly but Gujarat will be having its own Province, and we have been looking forward to such a condition since long. In the late Council also we had expressed that view more than once. Of course we are a very poor country. We have no big industrial schemes and things of that sort. But we do want to do away with certain anomalies that exist. Here we are in a minority, in the lower House also we are in a minority, and I say that we have to submit slavishly to the majority view, regardless of our culture, regardless of the economic as well as industrial conditions of our own Province. We have on many occasions during the late Council submitted, and I think we shall have during this Council also to submit just as a slave submits to his master to the views or rather to the policies of other Provinces. That is my grievance, and that is why I say that if my honourable friend Mr. Pradhan's desire is carried out and if some day Gujarat is made into a separate Province, we shall at least do away with the anomalies that have been thrust upon us. Since centuries we have been submitted to outside administration, and when the time does come—I think the time has come—Gujarat would be too willing to have its own administration carried on by its own people.

The one question that will come in the way of such a separation is the question of this Bombay city. Mr. Pradhan has left it out of consideration altogether. I consider that Bombay city need have no anxiety. Bombay, like Hamburg, may be created into an autonomous city. In Germany Hamburg has flourished like anything under the empire, and I do not see any reason why Bombay should not flourish. Bombay

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has its own cosmopolitan atmosphere and its own culture, and I should think that Bombay alone, if it is not joined to Maharashtra or Gujarat can make its own way. One big Bombay leader once asked me in the late Council "You have been again and again advancing the proposition of separation of Gujarat. Then what is to become of Bombay?" As if Bombay would be lonely. Bombay can never be lonely as a separate Province.

But the main consideration is about finance. The Finance Member like the Delphic Oracle is quite silent as regards this matter, and I do not know what he has up his sleeve. I mean, as regards the bad debts that his predecessors have incurred, how is he going to divide them between Karnatak, Bombay and Maharashtra? You know, Sir, if separation comes we of Gujarat shall go away without debt or rather Gujarat will go away with a very small debt. I am afraid the major portion of it will fall on Maharashtra, because there are so many irrigation works there, and again if Bombay is linked with Maharashtra, then that loss of 60 lakhs annually will fall on it, and I shudder to think what the condition will be in that case. As for Gujarat as a matter of fact, the normal annual expenditure incurred in Gujarat is roughly equal to the Provincial revenues of Ahmedabad. That is the normal expenditure incurred by the Government; of course I do not mean this Government but I mean the Governments that have preceded the present one which is in existence for less than a year.

Mr. N. D. DEODHEKAR : On a point of information, Sir. We are not discussing the subject of separation of Gujarat; we are discussing the separation of Karnatak. How, then, is the honourable member Mr. Desai relevant?

Mr. D. P. DESAI : But that has to be considered along with the separation of Karnatak. I am talking about financial capacity. Before deciding the question of a separate province for Karnatak, the financial aspect requires to be considered fully—how much Karnatak is to share in the bad debts, how much Maharashtra is to share in the bad debts and how much Gujarat is to share in the bad debts. In this respect, we had looked for guidance from the Honourable the Finance Minister, but I think the Finance Minister will have his say after we have discussed this resolution.

With these remarks, I heartily support the resolution and recommend Government to carry out the desire of the honourable member Mr. Pradhan who wishes that all provinces should be separated. I support Mr. Pradhan—as a matter of fact, I think a similar resolution for Gujarat may follow this resolution if Government support this resolution.

Mr. S. R. HALDIPUR (Dharwar *cum* Kanara) : Sir, I wholeheartedly support the resolution moved by my honourable friend Mr. Desai from Karnatak. I also come from Karnatak and it is but natural that I should support this resolution. It is the anxious desire of all Karnatakia

[Mr. S. R. Haldipur]

that Karnatak should be separated from the Bombay Presidency and we should have an opportunity of improving our financial condition, our trade, our industry and everything. It is our misfortune that even our district has been divided into two parts. Some 70 years back, it was divided into two parts; one part was given to the Bombay Presidency and the other was given to the Madras Presidency. As the mover of the resolution has already stated, there are some districts in the Bombay Presidency and some districts in the Madras Presidency where the Kanarese language is spoken. Though Karnatak is a part and parcel of the Bombay Presidency for so many years, honourable members of this House as well as of the Lower House know that if any member from Karnatak speaks in Kanarese, his speech is nothing but Greek and Latin to the other members, who do not belong to Karnatak, and the member speaking in Kanarese is—

The Honourable the PRESIDENT: The honourable member is quite wrong so far as this House is concerned. I have found no difficulty and nobody ever ridiculed a speech in Kanarese.

Mr. S. R. HALDIPUR: I do not mean that when any member speaks in Kanarese he is being ridiculed. What I mean is this that the Karnatakis can understand something of Marathi and also of Gujarati, but such is not the case with the Kanarese language. Though Karnatak is a part and parcel of the Bombay Presidency, the Maharashtrians and the Gujaratis do not understand the Kanarese language. That is the difficulty. So, what is the use of speaking a language which is not understood by the other people?

Then, Sir, Karnatak has one or two excellent ports like Karwar and Bhatkal, but there being no railway communication, all the produce of Karnatak, worth crores of rupees, is being exported to foreign countries through the port of Marmagoa which is a foreign port. In exporting our produce through this port we experience a good deal of difficulty. We are, therefore, very anxious to have a good port in Karnatak. Though Karnatak has a very big sea coast and though it is possible to have a safe harbour on the Karnatak coast, because Karnatak is not a separate province, nobody is so much interested in constructing a port on the Karwar coast and developing its commerce and trade. All these things are likely to be fructified if Karnatak is separated and that is why we are anxious to have a separate province for Karnatak. Once we have a separate province for Karnatak, we can improve the facilities for our commerce, trade and everything.

It is with this desire that this resolution has been moved by the honourable member Mr. Desai. I therefore wholeheartedly support the resolution and I trust Government will do its best in putting this resolution into action by recommending it to the proper authorities. I hope our desire will be fulfilled very soon.

With these words, I resume my seat.

Dr. P. G. SOLANKI: Sir, I rise to support this resolution, I may assure my honourable friend Mr. Haldipur that no one from amongst us in this House did ever have any adverse opinion about the Kanarese language being spoken in this House. As he has stated, our difficulty is about understanding it, but we try our utmost, with the limited knowledge that we may have, to understand the language when the two Inamdars try to speak in Kanarese. It was very pleasant time in the old Councils when the Sindhi members used to speak in Sindhi. It was with great pleasure that we used to listen to the speeches in Sindhi because the language of the Sindhis resembles the language of the Kachhis. In the same way, I believe the Kanarese language also resembles the Konkani language, and though not perfectly well, we can understand something of it. The people of Karnatak are our brethren and we wish them god-speed in their desire to have a separate province; of course, Government will take into account the several considerations of the questions, such as finances and internal administration in detail.

As regards the idea of the honourable member Mr. Dadubhai Desai, I think it is a dream. He has been dreaming for years, has been giving vent to his ideas. Today also he has done the same thing. When I asked him a pertinent question about the expenditure on the whole of Gujarat Province and he did not give me any exact round figures, but said that the income of Ahmedabad alone would cover the whole expenditure, (*Interruption*). If it is so, then the province of Gujarat need not look to the right or left but should go ahead for separation. Gujaratis are commercially enterprising people. They are spread all over the world; even in the forests of Africa there are Gujaratis. I have my own apprehensions when I think of the separation of Gujarat. The honourable member Mr. Dadubhai Desai told us and reminded us of the good old days of the Subhas of Gujarat who were sent from Delhi and the sort of administration which Gujarat had to undergo. We Gujaratis have got the bitter memory of those days. The Subhas had their own ways, they had their own favourites and had their own subordinates who had their novel ways of pleasing the Subhas. The result was the ryot was so much put down and harassed that nobody would listen to their grievances. Anyhow that is a past story. I have nothing to say about that now. I do not wish that the province of Gujarat or Karnatak should be subjected to further such tyrannies and atrocities from the new Governors or Subhas who may be appointed later on. But, as it is, we are under the Constitutional British Government and at the same time, in the modern times, where we are all having up to date ideas of Government, democratic and autonomous conditions of each province, all these noble ideas will really guide us to govern the provinces separately if that happy day will come when Karnatak will be separated and Gujarat will be separated, on linguistic basis. The Round Table Conference people had accepted that principle, the Congress has accepted unanimously, the Lower House has accepted the principle of separation of Karnatak. Nothing is left now for this House but to agree wholeheartedly for the separation of

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Karnatak and I do go by and go with the honourable member Mr. Dadubhai Desai that he should work up and he should not allow his efforts to be slackened, but he should work on and exert all his influence as vigorously as my Karnatak brethren have been working uptil now and agitating and carrying on the work and they have, I should think, 75 per cent. succeeded. Gujarat may succeed. For the Maharashtrians, the honourable member Mr. Dadubhai Desai had his soft corner. He says, perhaps, the Maharashtrians will have to suffer the burden of the finances which the Maharashtrians will not be able to make up as Gujaratis and Karnatakis may. Of course, that is a question for the majority of the communities and the majority representatives in the Lower House and in this House. His grievance was that our condition, that is, of the Gujaratis, in this House, as well as in the Lower House, is just like the hangers-on, the slaves, the subordinates, to serve the wishes of the majority representatives of Deccan. That is the grievance of the Karnatakis too and that is the grievance of Gujaratis too; but our aim is to be one nation, to be together. Let us understand each other, their languages and the Hindi language, which is going to be the national language. Then, I am at a loss to understand why gentlemen of the type of Mr. Dadubhai Desai should think of having Gujarat a separate province. Why not Gujarat and Maharashtra stay together? We are much more akin. We are much more brothers to each other, since the time of the Peshwas and the others. The Peshwas ruled over Gujarat, Gaekwars are ruling over Gujarat. The Gaekwar family has given us the most popular reforms. The present Gaekwar has been the idol of Gujarat though he is a Mahratta. Yet, if the question of separation of Gujarat will come, there will be lot of my friends against the Maharaja of Baroda, like some of the Talukdars and petty Thakors and Princes who are to go under the Maharaja for the Federation scheme. So these are the difficulties for Gujarat. Without taking much time now, I would say that let Karnatak have its own pious hope fulfilled as early as possible. Then we may think of Gujarat and Maharashtra, because Gujarat and Maharashtra have common things among themselves and I do wish that Gujarat and Maharashtra should not be separated from each other but they should live together as real brothers and carry on the administration of the united Maharashtra and Gujarat. I wish good luck to the Province of Karnatak and to my Karnataki friends here and I do submit that the Government, I mean, the Congress Government and the Cabinet would support the cause as they have already accepted the principle of separation of Karnatak and they will expedite it and try to get the Central Government and the Home Government also to consider this question, as early as possible and give effect to it.

With these words, Sir, I support the resolution.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, I support the resolution which is moved by my honourable old friend here, but my reasons are not the same which were put forth by

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the supporters of the resolution previously. The difficulties which my honourable friend Mr. Haldipur put forth were about the language and cherished desires of having a Kanarese University and the development of ports. All these objects, even if Karnatak continues joint with us as at present, would be attained, because we have got the Congress Government here and the policy generally of all the Governments under the Congress is being directed from an outside High Command wherein none of these interests will be neglected, because that High Command is expected always to be thinking in terms of India as one nation. As Hindus we know the charms of living in a joint family. At the same time, we all know that the moment a coparcener in a joint family takes it into his head to separate, trouble commences and we would wish the sooner the separation takes place the better, because we cannot force an unwilling member, particularly when threats even of Satyagraha are coming forth, to stay. If Karnatak wants to be separated, having no desire to live with us, then, of course, we must say "Yes". Some pity was expressed towards Maharashtra having to bear the burden of the finances, of the past debts. We know that when separation takes place in a joint family and if the family is involved in some debts, on account of deeds or misdeeds of coparceners, generally all the brethren share the debts. But if that sharing does not take place at separation and as our friend Mr. Dadubhai Desai has said that Gujarat also may follow and Maharashtra may be left alone, we Maharashtrians shall not be afraid of poverty. We are born poor and are prepared to die poor. Richness and profitable investment is a special privilege of Gujaratis. Karnatakis may get special assets, but they will add a few debts to the assets, and will enjoy life, that being their characteristic. They want to be separated and think they might develop it. These poor Maharashtrians are not there to block their progress.

Dr. P. G. SOLANKI: The lofty idea of nationalism is there.

Mr. N. D. DEODHEKAR: That will be there. After all, we are going to have the United States of India. About that I am quite hopeful and sure that it must come and there Karnatak will be with us. The language difficulty would at once disappear if we take to Hindi as our national language. I do not know whether Roman characters will come, but that is a question not of today. Under these circumstances, Sir, I support the resolution because the Karnatak friends want to be separated, not because we want them to go away. After that the Gujaratis and ourselves shall be here and I am quite sure we shall willingly pull on till Gujarat wants separation. We had been pulling on with Sindhis, but we never asked for separation of Sind. It was the Sindhis who wanted it and they have gone away. If Karnatak wants to go away and thinks that it can develop itself to its fullest extent, we do not want to come in the way of Karnatak and its development; we say Amen!

Under these circumstances, I can support this resolution.

Khan Saheb A. A. KHAN (Central Division): Sir, when I came here today a booklet entitled "A Case for Karnatak Unification" was placed in my hands. I have had very little time to go through this booklet, and I can only say this that even a less impressionable man than myself would be overwhelmed by the weight of authorities that have been quoted in this booklet in support of the proposition that Karnatak should be constituted a separate Province. First of all, there is Sir Louis Rieu, the Home Member of the Bombay Government in 1929. Then there is Mr. Lionel Curtis; then there is the Congress; then the historic Nehru report; then there is the press and the platform and, last but not least, there is Mahatma Gandhi himself. Sir, I am prepared to give the importance which it is necessary to give to the opinion of these authorities that have been quoted in this booklet. I have watched the debate that has taken place on this question in the Assembly; I tried to follow the speech of the honourable the mover of the resolution for the purpose of finding out whether he had made out a strong case for the separation of Karnatak by giving facts and figures. I have also tried to follow what has fallen from the lips of the others who have risen in support of this resolution and I regret to say that not a single convincing or logical argument has been advanced in support of the plea that Karnatak should be separated from Bombay. Sir, we are told that division of Provinces in this country on a linguistic basis is desirable. It may be that in the past, when the administration was entirely different from the administration that is in existence at the present moment, the distribution of the Provinces on a linguistic basis might have been desirable. But that stage is far behind and I do not think that at a time like this when our sole claim is that we are national in spirit and when we propose to be national in language also by the adoption of Hindi, it is desirable that we should cut up Provinces from the point of view of languages.

Sir, the object with which this resolution has been moved is the the unification of the various areas where Kanarese is spoken. I find from the map that has been given on the last page of this booklet that a portion of the area which speaks Kanarese is situated in the Bombay Presidency, another portion is situated in the Madras Presidency and a certain important portion is situated in the two important States, namely, Mysore and Hyderabad. The most that we can do is to recommend to the Government in Great Britain that our wishes in regard to the separation of Karnatak, of those portions of Karnatak which are situated in the Bombay and Madras Presidencies in other words, which are situated in British India, should be respected and that these portions should be constituted and formed into a Province. But will the object with which this resolution has been brought forward in this House as well as in the Lower House be achieved? There are still two large tracts of Kanarese speaking districts lying in two important States of Mysore and Hyderabad. We cannot do anything with regard to them without the consent of those two States and, if it is not possible for us either to ascertain the wishes of those States or to induce them to join with us in the formation of this Province will any good be

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achieved by the separation of that portion of Karnatak which lies in the Bombay Presidency and constituting it into a Province by co-operating with the Madras Government ?

Then the other point that has been put forward in support of this resolution was that Karnatak lacks a good port and a harbour like Bombay. Sir, our friends from Karnatak are here in this House as well as in the Lower House. Their number in the Lower House is, I take it, about 28. Here too, they are in a fairly large number. When it is possible for one of them to move for the separation of Karnatak will it be difficult for one of them to move that a port or harbour be provided for Karnatak, or that one of the ports or harbours that are already in existence be so encouraged as to become a flourishing port for the purpose of the trade of Karnatak ? I am sure even in the Cabinet Karnatak has been fairly well represented and any proposal of this nature could be very sympathetically considered by the Cabinet as well as by both the Houses. So long as Karnatak remains a part of the Bombay Presidency any proposal in the nature of the development of Karnatak will not only be for the benefit of Karnatak but will also be for the benefit of the whole Presidency, because if the finances of Karnatak are improved as a result of a flourishing port or harbour, the finances of the Presidency will also be improved.

The next point that has been urged is that there is no University in Karnatak. I put it to the honourable members from Karnatak, who have supported this resolution, where lies the difficulty in constituting a University for Karnatak ? It is up to them to come forward with a proposal for establishing a University in Karnatak and I am sure it would not be difficult. In the past great encouragement has been given to Karnatak by the formation of the Dharwar College. Most of the instruments and chemical apparatus in the Deccan College which had become defunct were removed to the Dharwar College and that College today is fairly developed. If my Karnatak friends come forward with a proposal that a University be established in Karnatak, we shall be prepared to give it such sympathetic consideration as the question requires at our hands.

Then we were told that the trade of Karnatak at the present moment is in a very languishing state and that is because it is joined to the Bombay Presidency ; that as soon as the divorce from the Bombay Presidency takes place, as soon as this unholy union is annulled, Karnatak will begin to flourish by leaps and bounds, that its trade will improve and there will be millionaires and multi-millionaires in Karnatak as there are in Bombay and Gujarat and that everybody will be happy. Now, there again, I would request my honourable colleagues from the Karnatak to come forward with proposals for the encouragement of industry and trade in Karnatak, and I am sure that such proposals will receive sympathetic treatment at the hands of both the Houses as well as at the hands of the Cabinet.

Then it has been remarked that under the Moghuls Gujarat was very badly managed.

Dr. P. G. SOLANKI: Sometimes.

Mr. DADUBHAI P. DESAI: Sir, I said that Gujarat flourished under the Moghuls and there were no difficulties in the way of its progress.

Khan Saheb A. A. KHAN: I am very glad to hear that statement from my honourable friend—

An Honourable MEMBER: He is learned also.

Khan Saheb A. A. KHAN: I know he is learned also and he is humorous also. There are so many qualifications that he possesses that if I were to make a list of them, I would be wasting the time of the House.

Whatever it may be, whether Gujarat flourished or whether it languished under the Moghul rulers, it is a matter of the past, and I do not think it is relevant to the debate which we are having at the present moment to consider what had happened in the past or what would have happened if some other rule had been established in Gujarat than the Moghul.

Then, Sir, it was said that Karnatak people are now unwilling members and what is the good of having unwilling people. If they want to be separated let them go and constitute their own Province, work out their own schemes on their own lines and we should not come in their way. Sir, Karnatak has been a part of the Bombay Presidency ever since the Bombay Presidency was constituted. Karnatak has been sending its representatives to the various legislatures since the legislatures were established and I have never heard that the people from Karnatak were unwilling members of the Legislature and that they did not want to remain as a component part of the Bombay Presidency. Sir, the idea of having a Province for Gujarat and a Province for Maharashtra, and a Province for Karnatak is of a very recent origin and whatever others may say about it, in my opinion, the constitution of these Provinces on a linguistic basis smacks very much of communalism. Of course, coming from the mouth of the majority community, there is no question of communalism, but when the same view point has been placed before the majority community by the minority community then of course it smacks of communalism. Only the other day we were discussing the question of joint and separate electorates. Muhammadans felt, as I remarked then, rightly or wrongly that they should be separate from the majority community for some time at least and we were told that this was "unnational" and it was "undemocratic." I would ask my honourable friends what would be their view about this problem. We are often told that we can separate ourselves into as many Provinces as we like. If need be we can constitute each district into a Province, if that were convenient and still we would be national in spirit. If national spirit is a thing which can be achieved by the mere waving of a wand or by the rubbing of a lamp like Alladdin's, probably you would be able to achieve the national spirit even after the disintegration of the whole of India into as many

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component parts as possible. But in my view instead of having more Provinces we should have fewer Provinces and the distribution of the Provinces should be from the point of facility of Government and not from the point of view of language or culture. After all, Kanarese is not the only language that is spoken in Karnatak; there are other languages also which are spoken there. Urdu is spoken by the Muhammadans there. I have been to the Karnatak districts and I would remind my honourable friend that I am not quite as ignorant of the conditions that are prevailing there as he is likely to suppose because of the fact that I hail from a Maharashtra district. I had been to the various districts of the Karnatak and in the course of my professional duties I have had occasions to appear in Courts in Belgaum and Dharwar and I found that Marathi as well as Kanarese were the languages in which documents were written, and that Marathi was as well understood by the people in Karnatak as Kanarese itself.

My suggestion is, Hindi may or may not be the *lingua franca* of India, its claims may be accepted by some, may not be accepted by some; but if it is the desire of the people of this country to have a language which would be the common language of at least some area, if not of the whole of India, is there any sense, is there any logic in constituting that Province or that area into different Provinces on a linguistic basis? Marathi is the language of Maharashtra no doubt, but Marathi is spoken in the Kanarese districts also. The result of the separation of Karnatak from the Bombay Presidency would be that the Marathi language would be killed there. Sir, a very large number of the population in the Karnatak districts speak Marathi. Their mother-tongue is Marathi and they have contributed greatly to the literature of Marathi, but by the separation of Karnatak a death blow would be given to Marathi as a language in Karnatak. Is that result desirable? Is it something which is being done in a national spirit? At least in the Bombay Presidency all the members of the population speak or try to understand and do understand and communicate each other's thoughts in this language. We Muhammadans speak Marathi, the Kanarese people speak Marathi, even the Gujaratis understand Marathi and are able to express their views in Marathi though their mother-tongue is Gujarati. When this is so, why not in a national spirit try and make Marathi the language of the Bombay Presidency? If you do that, you will be having at least one factor that will prove to be a unifying factor and a nationalising factor in this Presidency. I submit that the question of Hindi is a question which has its origin in communalism. Hindi is being put forward more or less as a rival to Urdu. I do not wish to go into the merits of Urdu and Hindi or Hindustani at this stage. But I may point out to my honourable friends in this House that they are trying to achieve what is really very, very difficult even for the whole of India to achieve, while they are not prepared to achieve something which is very easy for this Province to achieve. You want to separate these three provinces so that the Gujaratis will speak the Gujarati

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language, the Maharashtrais will speak the Marathi language and the Kanarese will speak the Kanarese language. The result will be that if a Gujarati goes to Karnatak, no one will be able to understand him, and it will be necessary to employ the services of an interpreter. Thus a new profession will be brought into existence—the profession of interpreters in Marathi, Gujarati and Kanarese.

Then, there is one aspect of this question which has not been considered and it is this. In the Karnatak the Mahomedans form a very substantial percentage of the population. So long as Karnatak remains a part of the Bombay Presidency, it will be possible for the Mahomedan members of Karnatak, with the help of the Mahomedan members of Maharashtra and of Gujarat, to place their view points before the House in general and before the Cabinet in particular and to see that the wrongs and grievances which the Mahomedans are suffering from are redressed. On the other hand, if Karnatak were to be constituted into a separate province, the percentage of the Mahomedan members to the total strength of the Provincial House of Karnatak will be so small that the apprehension that arises in the minds of the Mahomedans of Karnatak that their viewpoints may not be considered is really justifiable. No doubt, in unity there is some kind of strength, though that strength has proved more or less a broken reed in the past; but the position will become worse when Karnatak is separated, and from that point of view I oppose this measure.

Now, Sir, I have gone through the various arguments which have been advanced in support of the constitution of a separate province for Karnatak, but there are other points which should have been placed before the House for the purpose of consideration and which have not been placed before the House. How has Karnatak suffered by its being a part of the Bombay Presidency? Is the representation from Karnatak in the two Houses less than its population justifies? Is its representation in the Cabinet less than its population justifies? If we were to go into the facts and figures from these two points of view, it will be found that Karnatak has been given representation, both in the two Houses as well as in the Cabinet, far in excess of its population.

Then, Sir, there is another point of view that has to be considered and it is the financial point of view. There is a very big forest in the province of Karnatak; large sums of money have been spent over the development of this forest area. If Karnatak is separated from the Bombay Presidency, there will be no forest area left for the Bombay Presidency and what we have spent in the past will not be available to us in the shape of income in the future. I know that in reply to this question, the position of Sind will be placed before the House. We will be told that for the Sakkur Barrage in Sind lakhs and lakhs of rupees—

An Honourable MEMBER: Crores and crores.

Khan Saheb A. A. KHAN: Yes, crores and crores, and I am prepared to go even further than that and say that all the jewels that came from

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the mine of Golconda have been spent over the improvement of Sind, and now that Sind has been separated, all this amount which we have spent over Sind has become a bad debt. Well, let us assume for the sake of argument that we have committed a mistake in the case of Sind. But, because we have committed a mistake in the past, is it necessary that we should repeat the mistake in future also ? Does wisdom lie in the repetition of mistakes ? I submit that there exists this one very strong argument against the separation of Karnatak from the Bombay Presidency. Large sums have been spent for the purpose of developing a very big forest area in the Karnatak, and that forest area has not yet yielded any return for the money which has been spent over it. It is, therefore, desirable that Bombay Presidency should not lose what it has expected and is still expecting to derive from expenditure of money over the forest area.

On the whole, therefore, I am not satisfied with the arguments which have been advanced for the separation of Karnatak. It is all very well for us to pay compliments to each other : "Well, if you agree to the separation of Karnatak, we will agree to the separation of Gujarat. You pay us a compliment and we will return the compliment to you". And Maharashtra may as well console itself with the fact that after Gujarat and Karnatak are separated, it will also be separated and will have an autonomous existence of its own. However, the question that has to be considered is whether this dismembering of the Bombay Presidency is really desirable, whether it is financially possible ; and if it is not desirable and if it is not possible financially, then we should set our face against any movement which tends to separate the various provinces. I know a good deal of jealousy, a good deal of heart-burning exists between the three divisions of Karnatak, Maharashtra and Gujarat. Maharashtra may well say that it has suffered the most ; Gujarat may say that it has been suffering and has been a slave to the majority that is constituted by Maharashtra and Karnatak and so on. We are trying to develop the country into a national country. What does it matter if a little more advantage is given to Maharashtra or to Gujarat ? After all the advantage is given to the Bombay Presidency and we should look at it from that point of view. We should not look at it from the point of view of the various divisions to which the advantage is given. Those who feel aggrieved in this matter, those who think that the distribution of the spoils has not been just or proportionate should stand up like Oliver Twist and ask for more, but they should not say that because more is given to other divisions and nothing is given to them "Let us separate". That would be a spirit in which a wilful boy would act but it is not the spirit in which we who are not merely legislators but advocates of nationalism also, should act in a matter like this.

With these words, Sir, I oppose the resolution and I hope that those advocates of nationalism, who had been flinging nationalism in my face the other day, will be true to their principle, in which they have been acting all along, and throw out this resolution (*Interruption*). What is sauce for the goose is sauce for the gander.

The Honourable Mr. A. B. LATTHE: Sir, I do not wish to detain the House for any length of time over this question. The whole House is fully aware of the attitude of Government towards this question, as they had made it clear in the Lower House.

Dr. P. G. SOLANKI: What is that attitude?

The Honourable Mr. A. B. LATTHE: Reconstitution of the Indian Provinces on linguistic basis has been accepted as an objective, not only by the Indian National Congress but also by many other political thinkers. If you want responsible self-government to come into existence in any province, the language spoken by the whole people in that province and the language used by the representatives of the people in the legislature should be one and the same, and that can happen only in the case of provinces which have only one language. The members of this House are fully aware that great difficulties arise when members come here from different parts where different languages are spoken. The language of such members may not be understandable by the other members. In order that these difficulties may be removed, it is much better that the province should be speaking only one language, and then only the sense of responsibility will improve very much better. It was on this basis that Mr. Lionel Curtis based his case for linguistic areas some years ago when the Montagu-Chelmsford Reforms were being discussed.

Instead of basing the claim for the constitution of Karnatak into a separate province on such general grounds, certain honourable members here have, in spite of this principle, given vent to their pent up feelings of the alleged differential treatment received by Karnatak from the other provinces in the past. I think the seeking of assistance from such arguments is entirely suicidal. It is not in the interest of the Karnatak that such complaints based on wrong information should be made against the Bombay Presidency or any part of the Bombay Presidency. If Maharashtra has got more irrigation canals and if more money has been spent over them, well, it was not because those who were in charge of this province were very fond of Maharashtra nor were these people Maharashtrians. They were the British people who decided what canals should be constructed in Maharashtra. I think my honourable friends from Karnatak ought to know that it was in the interest of the British people themselves that they decided to undertake the scheme for the development of the Gokak Canal. I say it was in the interest of the British people, because there was a British mill which was working there and this mill would have benefited very much if this scheme, which was dropped later on, had been completed. But the British people found—not the Maharashtrians or the Gujaratis—that the scheme was not feasible. They found that this scheme would cost about 5½ crores of rupees and the return on it would not be even 1 per cent. It was impossible, therefore, that such a big scheme could be undertaken in Karnatak. That does not mean that the Bombay Presidency or, more particularly, the people of Maharashtra or Gujarat were unwilling that such a scheme should be undertaken in Karnatak.

[Mr. A. B. Latthe]

Then, a reference was made to the absence of a harbour and a railway line on the coast of Karnatak. Do not the honourable members know that these are subjects which are not in the hands of the provincial Government? Even if Karnatak is constituted into a separate province, these are things which the Government of India is going to manage. The construction of harbours and a railway line are subjects which will be in the hands of the Government of India, whether Karnatak is separated from or linked with the Bombay Presidency, and the people of Karnatak will have a better chance of getting these things done by the Government of India if it is linked with the Bombay Presidency than if it forms a separate, tiny little province. As I have said already,

4-30 p.m. on principle the Government and the Congress and the Lower House also have accepted the constitution of the various provinces on linguistic basis. A reference was made to what Mahatma Gandhi has recently said about that, but I think it must be either ignorance or a very culpable negligence not to point out to the next sentence which Mahatma Gandhi himself has written in the letter in which he expresses his opinion on the subject. He said, on principle of course the case of Karnatak for a separate province must be accepted, but then Mahatma Gandhi also said that the difficulties in the way should be pointed out to the legislature by the Ministers. I must say that the Bombay Government have not gone into the question with the care with which the question will have to be considered. Reference was made as to whether separate Karnatak Province could be a self-supporting province financially. I must admit that sufficient enquiries have not been made. Sufficient enquiries could not be made by one province alone, because Karnatak in the future is to be constituted of areas which are under the Coorg Government, under the Madras Government and under the Bombay Government. An Officer will have to be appointed who will have to make enquiries with regard to the financial conditions, income and expenditure, with regard to all these provinces and then a decision will have to be arrived at. Very important questions are involved and they will have all to be considered, and I suppose that all these investigations should be made under the orders of the Government of India because the enquiries will concern more provinces than one. These things will have to take place and then the whole picture will be before the people of the Karnatak and the rest of the Bombay Presidency. For the present, we have accepted this principle of linguistic provinces and we have also accepted the principle that, as far as possible, the Karnatak should be constituted into a separate province. This is the first step in the course of many steps which will have to be taken before the object will be achieved and it is hoped that the acceptance of this resolution by the legislature will induce the Government of India to undertake the necessary enquiries and to take the necessary steps in the future. The Bombay Government, of course, will be very willing to help to the best of their abilities in achieving this object.

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I have to add that the Government accepts the amended resolution.

The Honourable the PRESIDENT: I think it is time to adjourn for tea. I have invited all the members of this House to tea today and I have sent letters. It may be that some letter may have been miscarried or misplaced and some member may not have received the invitation. I hereby extend to all the invitation to tea between 4-30 and 5-30. Then instead of re-assembling at 5 o'clock we will re-assemble at 5-30. That may take away half an hour of today's discussions; so we will extend the time up to half past seven instead of seven. The time will be extended up to half past seven.

The Honourable Mr. A. B. LATTHE: Could we not finish this resolution, Sir?

The Honourable the PRESIDENT: I will put it to the House afterwards.

The Honourable Mr. B. G. KHER: I was suggesting that we might finish it. There will not be any opposition, I think.

The Honourable the PRESIDENT: Then, I will put the resolution, as amended, to the House.

Resolution, as amended, put, and agreed to.

(The House re-assembled after tea at 5-30 p.m.)

BUSINESS OF THE HOUSE.

The Honourable Mr. B. G. KHER: Sir, I was asked as to what would be the programme of the session and I think it would be very convenient if the House now adjourns to Monday, the 25th, and on that day Government business will be taken up. First the Offenders' Bill will be taken. The Lunacy Act and the Education Act will be ready by that time from the Lower House, and then a day will have to be fixed for non-official Bills. I understand it would be convenient to begin with Government business on the 25th; then either the 26th or 27th, whichever is suitable, may be allotted for non-official business and then we can go on, day to day, with the other business till we finish.

**SEPARATE AND INDEPENDENT CLASSIFICATION
OF SCHEDULED CASTES**

Dr. P. G. SOLANKI : Sir, I beg to move the following resolution :

"This Council recommends to Government to classify separately and independently the "Scheduled Castes" from the "Backward Classes", under the nomenclature of "Scheduled Castes" or "Harijans" and to discontinue the practice of merging the "Scheduled Castes" amongst all other touchable Backward Classes as is done hitherto."

Sir, the resolution itself may create some suspicion in the minds of some of the honourable members here that I want to segregate the scheduled castes from the other backward classes and form a fourth class. Nothing of that sort. Since the year 1927 or from the year 1927 when I entered the Council, the uppermost idea in my mind was and is even now that how much benefit and greatest advantage I could bring to the scheduled castes of the whole of the Presidency. I moved a resolution in the year 1928. By God's favour I succeeded in persuading the whole House to support my resolution which I had tabled to the effect that a committee should be appointed of non-officials and officials to enquire into the conditions of the Depressed and aboriginal tribes. An enquiry committee under Mr. Starte was appointed and that was known as the Starte Committee. That committee went round the whole of the Presidency, studied the questions of the Depressed and aboriginals, and the other backward classes, and the hill tribes. After the Enquiry Committee Report was out, I moved another resolution in 1930 to the effect that a Board be established by the Government to look after the grievances, hardships, handicaps of these people in the Presidency and to suggest ways and measures to the Government to redress their grievances and to ameliorate their conditions. All the members of the Council were sympathetic and they passed my resolution to appoint a Board unanimously. When the Board was appointed, the question was raised whether it should be known as a "Scheduled Class Board or a Backward Class Board". In order to give relief also to the touchable backward classes, and the aboriginals or Kaliparaj like the Dubalas and the Raniparaj or the hill tribes and the criminal tribes, I agreed that the benefit and advantages should be given to all these people also. This is the history of the establishment of the "Backward Class Board" for the amelioration of the neglected, untouchable classes, the aboriginals and the hill tribes, and the other touchable Backward. The criminal tribes were already looked after by the Government and the Government had in the past years and even up till now been maintaining a special department to win over the criminals from their criminal habits and to absorb them and merge them among the population of the Presidency and have the criminal tribes who number only a few thousands on whom lakhs of rupees are spent every year, for maintaining special staff and settlements and industrial homes. Every year 3 to 4 lakhs are spent for the criminal tribes alone separately. In the past up till 1930 nothing was spent for the betterment of these backward touchables,

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aboriginals and the hill tribes. They were left to the mercy of the officers, the executives and they were all the time mixed up and merged with the touchable Hindus. All the officers who were at the helm of affairs being of the advanced classes, cared little for these backward people, they cared more for their own kith and kin and they did whatever they could, and did everything for those people. The touchable backward and the aboriginals, Kaliparaj, Hill tribes or Raniparaj and the scheduled castes were totally neglected up till 1929. The untouchables at that time were never treated as human beings deserving kind and good treatment from the Hindus. Their habitations, their locations, and everything were segregated far away from the village population. Had it not been for the honourable exceptions whose names I have mentioned here as well as in the old Council, their condition would have been far worse to-day. They were the noblest sons of this presidency, actuated by noblest of sentiments. Persons like Mr. V. R. Shinde, Mr. Gokhale, Justice Ranade, Dr. Paranjpye, Sir Narayan Chandavarkar, and others had genuine sympathy for the down-trodden and neglected untouchables. The persecution of untouchables has been going on for the last 2,000 years. The untouchability question has its peculiar origin. People say the untouchables are since Satya Yuga. I do not believe in that. It was due to political upheaval, foreign rules, change in the religions; due to these causes untouchability has come in India. The decline of Buddhism is the cause of untouchability in India. The staunch followers and devotees of Buddhism who refused to embrace Hinduism of Shankaracharya were socially boycotted and degraded and these people became "untouchables".

I only read in papers a few days ago that Mrs. Kasturba and Mrs. Mahadeva Desai went to the temple of Jagannath in Puri. Mrs. Mahadeva Desai and Mrs. Kasturba were allowed to go right up to the shrine of the deities, and had the *darshan* of the shrine, standing near enough to the shrine. What Mahatma Gandhi said was, when they were trying to eradicate untouchability throughout India, how is it that his own kith and kin should go into a temple where untouchability is observed and the untouchables are not allowed to enter the temple of Jagannathpuri to have *darshan*? So, I consider that Mahatmaji got annoyed at this incident which occurred about a week ago at Puri. Even in the presence of Mahatma untouchability is yet observed.

It has been the impression of some members of the Cabinet that the scheduled caste people have advanced educationally, economically, and so there is not much distinction observed by the Hindus nowadays between them and the scheduled castes. I want them to remember that, even in spite of the best efforts of Government, the scheduled castes are at this moment being ignored, despised and hated everywhere. They are ill-treated, molested and assaulted. No doubt, they took

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advantage of the British rule and the missionary schools in the past and got themselves educated. Some of them became Christians and Muslims from among whom many are holding very high Government posts. This happened and will happen only when the untouchables changed their label of Hinduism and embraced other liberal religions which believe in equality of mankind and universal brotherhood. But as long as they remain untouchables, they have no way out. Even to-day, with all my uptodate dress, education and degrees, in spite of my being a member of the Senate, a member of this House, and in spite of my having been a member of the previous Councils and in spite of my taking part in all public affairs, the moment I get down at my railway station in Surat District no private owner plying his car for hire at the station would allow me to travel by his tonga or car; no advanced class man will invite me to enter into and to sit in the tonga or car or bullock cart even on payment of usual rates of travel.

The Honourable Mr. MORARJI R. DESAI: You are wrong.

Dr. P. G. SOLANKI: The Honourable Mr. Morarji Desai may be an exception. He may sit with me. But my point is, when that is the case with me, imagine what the case may be with the less fortunate brethren of my community in the villages.

My object in bringing forward this resolution was to request this Honourable House to do as much as possible for the amelioration of the conditions and benefit of scheduled castes on their population basis. The other touchable backward classes—among whom will come Kolis, aborigines, Dublas, Nayakdas, Raniparaj people, Warlis and others—all these people should be given also the benefits on their population basis. I do not grudge them that. At the same time, let the scheduled castes, the untouchables, have their share, full share, on their population basis, in regard to scholarships, services and all other rights and benefits. My personal knowledge and experience is that when appointments are made from the backward classes, the touchable backward class people are selected in preference to the deserving and highly educated scheduled caste candidates. The prejudice against the Scheduled has not yet died away even from the brains of some of the white civilians. And whenever myself and Dr. Ambedkar have gone to the members of the Cabinet in the past; the Commissioners or Collectors, the reply has been: "We have taken a candidate from the backward classes. There is no specific mention of the scheduled candidate and we have selected a person from the backward and we are within Government Resolution orders." If a scheduled caste boy has got equal qualifications with a touchable backward class boy, intermediate class boy, or an advanced class boy, why not give preference to him? The various communiques and circulars of Government issued from year to year, declare that the scheduled caste candidates should be given preference, but to our bitter experience we find that little notice has been taken of these circulars

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and Government Resolutions by the executives and officers. That has been the experience of Dr. Ambedkar and myself, for the last 10 years. The tale from Gujarat is much more harrowing. Being untouchables, our people have been kept half a mile or a mile distant from the other population of the village. For twenty or eighteen centuries the bulk of our people have been made to stay away from all contact with the regular village population owing to segregation and social boycott. When the Mahomedans came and the Christians came in India, they sent their missionaries and workers with their Koran and their Bible to these people. The orthodox Hindus have always kept back their scriptures from the untouchables. That is particularly the case with Gujarat. They resent Mahatma Gandhi's dabbling in removal of "Untouchability problem". Although I am a solitary person in this Council, it is my duty to try my utmost to win over all those who are on the opposite side, particularly the Prime Minister, and the Cabinet Ministers, and make them see eye to eye with me and to help these people. I would be satisfied if the Honourable Mr. Kher were to give an assurance that whenever the question of selecting candidates for service in Government offices, nominations and reservations come up, the scheduled caste candidates should not be neglected but should be appointed in proportion to the percentage laid down by Government circulars and Resolutions on population basis. Some friends of the scheduled castes may feel that the scheduled castes will be at a disadvantage if that is done. They need not feel so. We do not covet for more than what is our due on our population basis. Let there be fair field and no favour. But now we are told that we will get our due share, our men will be appointed in due proportion, but when things are actually disposed of, it is the touchables and other minorities that are taken. The officers appoint their own men their and their subordinates and favourites. The applications and claims of deserving educated qualified candidates are never looked into, with the result that the untouchables are neglected, and are always treated in a step-motherly way by officers. That is the complaint of the members of scheduled castes in the Lower House; that is the complaint of the vast bulk of the population of the scheduled castes in the Presidency. That is my complaint here on behalf of Gujarat. Unfortunately, I am the only man from Gujarat who can speak with full and definite knowledge of the handicaps in Gujarat in this House. The other gentlemen who have come to the Lower House from Gujarat on the Congress ticket, belong to a microscopic community amongst the scheduled castes. They have no hold or any influence over my community, which is the majority community and which numbers lakhs and lakhs. Those representatives in the Lower House cannot make any impression or make common cause with my community, and my people will not make common cause with them. People cannot overcome the sentiments about others. I do not mind if the Congress is pleased to give to the

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communities of those two persons—I do not want to name those communities—all that they want. We do not mind that. But give to our people their due share. Why are they neglected? I have seen cases where because a certain person belongs to Dr. Solanki's side or Dr. Ambedkar's side, that person is shunned and ignored altogether by the people who are Pro-Congress. That is the point of view of some officers in the various departments and who are also pro-congress.

The Honourable the PRESIDENT: The honourable member is going away from the subject.

Dr. P. G. SOLANKI: Sir, the subject is wide, and the question is so important that even if I take days together I will not be able to do justice to it. The Honourable Prime Minister, who has worked strenuously for years for the elevation of the scheduled castes, may see eye to eye with myself. I have not the slightest suspicion about the anxiety of the Prime Minister and the anxiety of the other members of the Cabinet. But what can they do? Orthodoxy is there; it has remained. Mahatmaji has been trying all the time, and along with Mahatmaji we have got the members of our Cabinet labouring for the cause of the scheduled castes and who have accepted that cause as their first charge. And yet, if I am not to bring to your notice our

6 p.m. heart-burnings, our grievances and our handicaps, who else will place them before you? As I have said, if I were to get a full assurance from the Honourable the Prime Minister, who is the spokesman of the Cabinet, that, in future, they will see that in their Government Resolutions, press communiques, and circulars, the word scheduled castes will be mentioned along with the backward, i.e., backward and Scheduled in regard to the question of recruitment to services, scholarship and so on, I would be content with that assurance. Government will not lose anything thereby. It will be a little waste of stationery, some more ink and paper. What is this small waste to a Government which has sacrificed 3 or 4 crores of rupees on behalf of prohibition? If you at least make a gesture that you agree to my suggestions, I will wait for the next few months and see what you do substantially for us. There is no difference between the Congress and our goal as far as the masses are concerned. In spite of opposition, make good your election pledges and come to our help immediately without giving us vague promises of adequate representation and adequate share in services. If the Honourable Prime Minister were to give me an assurance to the above effect in clear words, I would not press my resolution for division. I would expect the Honourable Prime Minister to prevail over the other members of the Cabinet. With these words, I commend the resolution of mine for the acceptance of the House.

Khan Saheb A. A. KHAN (Central Division): Sir, I will be wanting in my duty, if I do not say a few words in support of this resolution. I can assure the honourable mover of this resolution that I am not doing

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it on account of selfish motives—not because he has been supporting us in the resolutions and motions we bring forward. I am supporting it as a follower of a religion which has laid down that all men are equal in the eyes of God and are entitled to all the privileges which He as creator of the Universe has showered on us. It may be that the sentiments which I have expressed will be considered idealistic by those who have had very few opportunities of studying the religion of Islam. They might think that I am talking about things which are *non est*. I assure them that such are the principles which Islam observes and they are the fundamental tenets of Islam. I am not ashamed to confess that of late even we ourselves have fallen away from the principles which we once upon a time followed, and followed in a manner which was a glory to ourselves and to our religion.

I quite agree with the honourable mover in his grievance that by being classed together along with the touchable backward classes a good deal of injustice is being done to members of his community in the matter of recruitment to service. He expressed that he would be content with an assurance from the Honourable Prime Minister. Although we attribute the best of intentions and the best of motives to the Honourable the Prime Minister, it would not be possible, because of the multifarious duties he has to attend to, for him to attend to every detail in this matter. I would say, instead of an assurance from the Honourable the Prime Minister, the cause of the community which the honourable mover of the resolution has espoused would be best served if Government were to issue a Government Resolution laying down a ratio or proportion in which the members from the Scheduled Castes should be recruited where of course they are available. It may be, when a post falls vacant, a number of applications are received. I know even for posts carrying a salary from Rs. 50 to Rs. 100 we receive applications from people holding English Degrees. That may be the case, but that is no reason why members of the Scheduled Castes or members of the community of the honourable member Dr. Solanki should be kept out of their just rights, because people of high qualifications are available. If the posts that have to be filled up are of a clerical nature, the minimum educational qualification necessary for the proper discharge of the duties pertaining to those posts alone should be insisted upon. The mere fact that you get a graduate or a double graduate or a B.Sc. or an LL.B. or an England returned man, as a rule, should not stand in the way. After all, if blocks have to be broken, you use a heavy hammer or an axe and you do not go in for a fine razor to break it. In that way, when you recruit for subordinate posts, you will have to consider only whether the candidate has got the minimum qualification for the discharge of the duties pertaining to those posts. I want Government to lay down a certain ratio in which the members of the Scheduled Castes will be employed in future. If they issue a Government Resolution to the effect that they will punish drastically any one who does not follow the injunctions that they lay down in this matter, there would be very little

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room for complaint on the part of the honourable member Dr. Solanki. In the case of my own community, I can assure the House as well as the Honourable Ministers, when questions regarding recruitment are asked in both the Houses of Legislature, we are told that Government are anxious to employ Mahomedans but Mahomedans are not available. You approach His Excellency the Governor of Bombay, he will say: "Gentlemen, it is very well for you to talk. We are anxious to employ Mahomedans but where are the Mahomedans? They do not exist." It is like the ostrich. The ostrich, pursued by hunters, buries its head in the sand. Because it cannot see the hunters, it thinks hunters cannot see it. Because the officials responsible for the appointment do not care to see that there are any Mahomedan candidates—

Mr. T. M. GUIDO: May I enquire, Sir, whether all this is relevant to the resolution?

The Honourable the PRESIDENT: I do not think it is strictly relevant, because the question is classification of backward classes into scheduled castes and other backward classes. What the honourable member is saying is certainly far away from the subject-matter of the resolution.

Khan Saheb A. A. KHAN: I submit to your ruling, Sir, though I should have thought that as a member of the legal profession I ought to understand relevancy better than a member of the medical profession.

An Honourable MEMBER: He is also a member of the legal profession. [*Laughter.*]

Khan Saheb A. A. KHAN: I can only say that I am surprised at it. In any case, what I wish to point out is that the principle that Dr. Solanki has placed before the House required some illustration, and I just brought forward one which came within my knowledge. I did not go into the details and defend the cause of the Mussalmans. When I have to defend the cause of the Mussalmans, I shall go into the details, and then it will not be possible for my honourable friend to raise even a point of order. I am now merely giving an illustration as to how although a percentage is laid down, when it comes to actual recruitment that percentage is not adhered to, and, when matters are brought to the notice of the higher authorities they simply say that there were no candidates. When Government lay down a certain ratio, they should see that that ratio is adhered to, and they should tell their subordinate officers: "So many shall be employed, and if this order is disobeyed, we shall punish you". If that is done, justice will be done to those to whom justice should be done. The distinctions of caste in this country are merely the result of the economic system that was prevailing in the past. That system has

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had its day ; it must come to an end. And in the name of humanity, at any rate, we should see that that system is brought to an end, and we should give their just dues to members of those castes and communities that have been kept out of jobs and appointments.

I have very great pleasure in supporting the resolution, whoever else does it or does not.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar) : Sir, I have to make an observation or two on this question. I am sure that the Prime Minister has got a very soft corner for Dr. Solanki and that he will give him some assurance and the resolution will possibly be withdrawn. At the same time, I have to bring one or two points to the notice of my honourable friend Dr. Solanki. He is asking for a distribution of the loaves and fishes—that is the expression he used—on the population basis. I should like to see that this idea of sharing services, etc., on a population basis is once for all done away with. Once you establish this method of distribution, our compatriots, the scheduled castes, will stand to lose in course of time. If the general population increases disproportionately, the scheduled castes may not be able to get the percentage they may get now. The general population is increasing, and we are getting pamphlets from Birth Control Leagues. If on account of propaganda by Dr. Solanki and his friends, with faith in the principle of sharing loaves and fishes on population basis, the scheduled class population increases, even with the best of intentions Government may not be able to cope with it and the proportion of 4 annas of today may go down to 2½ annas. Thus the scheduled castes stand to lose.

Khan Saheb A. A. KHAN : By democracy what is meant is, what is mine is mine and what is thine is also mine.

Mr. N. D. DEODHEKAR : Those who have got weightage should not say this.

Khan Saheb A. A. KHAN : We are eternally grateful.

Mr. N. D. DEODHEKAR : Thank you, Sir.

The Honourable Mr. B. G. KHER : Sir, as no other honourable member seems to be desirous of taking part in the debate, I shall now say a few words on this resolution. The honourable member Dr. Solanki's resolution is to this effect, that Government should now classify separately and independently the "scheduled castes" from the "backward classes", under the nomenclature of "scheduled castes" or "Harijans", and should discontinue the practice of merging the "scheduled castes" amongst all other touchable backward classes as has been the case hitherto. I am sure honourable members are aware of the history of the old Resolutions on this subject. On the 29th May 1933, a resolution was passed, in which it was stated that the term "depressed classes" had given rise to much confusion of thought, and

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the term "untouchables" as describing the classes to which it was applied, was offensive. This was the recommendation of the Depressed Classes and Aboriginal Tribes Committee :

"They recommend, therefore, that the nomenclature of the classifications hitherto adopted in the Primary Education Rules should be changed, the classes therein shown as 'Backward' and 'Depressed' being re-named 'Intermediate' and 'Backward' respectively ; that the 'Backward Classes' should again be sub-divided into—

(a) 'Depressed Classes', which should consist of untouchable classes only ;

(b) 'Aboriginal and Hill Tribes', which should consist of castes a large proportion of which inhabit or did inhabit, until recent times, the forest areas ; and

(c) 'other Backward Classes', which should include the wandering tribes who may not be aboriginals or live in forest areas, but who need special care as being very backward."

These three classes were classified under one category, namely, "Backward Classes". And it was further resolved that a list of "Backward Classes" should be prepared on the lines indicated, published and made applicable for all purposes, and that no change should be made in the list except with the consent of Government, and—

"that no community should be permitted to remain in the 'Backward Classes' category after the special aid and protection to be afforded to these classes becomes no longer necessary for its advancement, and that to ensure this the Backward Class Board should review the list of Backward Classes from time to time and submit to Government recommendations for the removal from it of any community which is not treated as untouchable by the other classes of the community and which has reached a certain standard of literacy—the exact standard to be fixed by Government in consultation with the Backward Class Board—and an economic status beyond which special assistance is not necessary."

This is, Sir, from the resolution by which the "Backward Classes" as a whole class were separately indicated. Then, we come to the next resolution, that of the 3rd December 1934 :

"They (Government) are also pleased to approve the further sub-division of the 'Backward Classes' into (a) Scheduled Classes, (b) Aboriginal and Hill Tribes and (c) Other Backward Classes."

Now, the honourable member Dr. Solanki suggests that the first of these three categories, namely, the scheduled classes, should be taken out from the category of "Backward Classes" and formed into a separate unit by itself. Instead of there being three divisions of the Hindus, namely, advanced, intermediate and backward, there should in future be four divisions, namely, advanced, intermediate, backward, and scheduled : that is the effect of his proposal.

Now, it is very difficult to understand the motive underlying the resolution which has been brought before the House by the honourable member—

Dr. P. G. SOLANKI: Have I not explained it sufficiently ?

The Honourable Mr. B. G. KHER: I am coming to that. I am going to convince the honourable member that the remedy he is suggesting is worse than the disease which he is attempting to cure. Let me at the outset admit that the disease is real. To all that he said about handicaps and grievances and persecution of 2,000 years, I have no

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answer. We have, I think, time and again described untouchability as a curse on Hinduism, and I am very deeply obliged to the honourable member Dr. Solanki for the great faith which he has expressed in our *bona fides* regarding our anxiety to remove the curse of untouchability from our midst. It is not necessary for me to go into a discussion about what the Peshwas or the Maharashtra Brahmins and the Gujarat Brahmins and others did or did not do. The honourable member was only illustrating his remarks and it was a historical survey of the position of the untouchables according to him. That the scheduled classes, the untouchable classes or the Harijans have been suffering so many disadvantages is a matter beyond dispute. That as early as possible, immediately if possible, this state of affairs should be remedied is another proposition also beyond dispute. Therefore, all that is now to be considered by us is this, namely, whether the remedy that has been proposed by this resolution of classifying them separately from the other backward classes is going to achieve the object which the honourable member, along with us, has in view, and I am going to show to him that it is not going to do so.

Before we go on to the question of the services, in which connection I may have a word or two to say about the remarks of the other honourable member from Poona who took part in the debate, let us see how the matter stands so far as facilities for education are concerned *inter se* between the members of the divisions which fall under the major group of the backward classes. The resolution which I quoted to the House directs that this revised classification should be adopted for all purposes, including the grant of educational privileges, recruitment to Government services and representation on public bodies. This is the resolution No. 9930 of 29th May 1933. If the honourable member thinks that the interests of the scheduled classes today suffer because they are included in the backward classes, I am going to point out to him that, so far as at least educational facilities are concerned, if they are split up on a population basis separately for the scheduled classes and for the other backward classes, the scheduled classes will stand to lose rather than to gain, so that if his idea is that the members of the scheduled classes should benefit, at least so far as educational facilities are concerned, his object will be utterly frustrated.

Dr. P. G. SOLANKI: How? Give us our due.

The Honourable Mr. B. G. KHER: I am very glad that he is so just and fair. Let us see what the position today is. The backward classes, as I observed, under the later resolution of 1934, are divided into scheduled classes, aboriginal and hill tribes and other backward. The population according to the last Census of the scheduled classes is 1,650,873. On the basis of this population, the number of special scholarships which they will be entitled to, if they are separated into a separate category as the honourable member wants, will be 266. Other scholarships for arts and professional colleges they will be entitled to

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will be 45. I am giving to you figures of scholarships actually held on the 1st of February 1938.

In the secondary schools, instead of 266, they held 344 scholarships.

Dr. P. G. SOLANKI: Those are for the backward or the scheduled classes only ?

The Honourable Mr. B. G. KHER: I am speaking about the scheduled classes only. I will go on to the aboriginal and also to the other backward classes. So that the honourable member will see he is getting 344, while on the population basis he would be getting 266. On the basis today, as it happens to be, it is 344.

Now as regards the Aboriginal and Hill tribes, here I would like the honourable member to note the figures. The population of the Aboriginal and Hill tribes is 1,269,133. On the population basis if the scholarships were distributed *pro rata*, they would get 203 scholarships, but, as a matter of fact, on the 1st of February, in place of 203 scholarships in the secondary schools they held 31, and in the arts and professional colleges, in place of 34 they held 5.

Now we go to the third category, the other remaining backward classes. Their population is 832,215. On that basis, in the secondary schools, on the population basis they would get 140 scholarships, and in the arts and professional colleges they would get 22 scholarships, but on the 1st of February 1938 they held 143 scholarships in secondary schools which means that though they would be entitled to 140, they get 143.

Dr. P. G. SOLANKI: Three more.

The Honourable Mr. B. G. KHER: But not 344 in place of 266.

Dr. P. G. SOLANKI: At whose cost ?

The Honourable Mr. B. G. KHER: At the cost of other people, instead of 203 they got 31. In the arts and professional colleges, they would be entitled to 22, but they got 23. That, you will see, is as near as possible to their population basis, but in the case of the scheduled classes they get a much larger share. Even in the distribution of the Rs. 40,000 which, immediately after this Government came into power, was set apart for scholarships, as the honourable member will bear me out, Rs. 37,000 went to the share of the scheduled classes and Rs. 3,000 went to the share of the other classes. Is it or is it not a fact ?

Dr. P. G. SOLANKI: Is it not a fact that Rs. 40,000 were earmarked for the scheduled classes ?

The Honourable Mr. B. G. KHER: He therefore ought to know that, so far as the scheduled classes are concerned, they are getting every possible facility in the matter of education. I think he will bear me out, and if the honourable member now thinks that by going out of this category at least educationally he is going to benefit, I beg to differ.

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I will not quarrel with him. I think the facts speak more eloquently than mere guesses or arguments.

Now, let us go further. As regards the object that the honourable member has in view, namely, that this unfortunate condition in our country, of which we are all genuinely and sincerely ashamed, should be put an end to as soon as possible, there are no two opinions. I have dealt with the question of education.

Then, Sir, we will come now to the other point, namely, the representation on the school boards. On the school boards under the Primary Education Act of 1923, the scheduled classes were given, apart from the backward classes, a separate seat. I know what I am speaking about, not the backward but the scheduled classes, and the honourable member is referring in this connection to the resolution of the Education Department, dated 29th March 1935. If the honourable member so desires, I can read out the whole resolution for him. He will see that scheduled classes as such were separately treated. He ought to know that. I think he is so familiar with these matters.

Dr. P. G. SOLANKI: I know that.

The Honourable Mr. B. G. KHER: He knows that.

Dr. P. G. SOLANKI: But what is the condition now?

The Honourable Mr. B. G. KHER: The position is that the scheduled classes alone become eligible for representation on the school boards thenceforth by election, while the aboriginals, the hill tribes and other backward classes have not been given any representation by election under the Primary Education Act of 1923. Again, in the draft Bill to amend the Primary Education Act to be introduced, we are providing that the backward classes and the Muslims may have separate representation. So that, again we have this, that the honourable

6-30 p.m. member is not going to gain anything by going into a separate category and making four instead of the present three divisions.

Dr. P. G. SOLANKI: Even if it is made a separate category as scheduled classes, will they not be entitled to the new concessions which you have made? They will get them.

The Honourable Mr. B. G. KHER: I do not understand it. Where is the point in your becoming a separate class? I cannot understand the honourable member's idea, unless he wants to say—(Interruption)—I am coming to what is at the back of his mind. Today his proposition is, divide them into four instead of three categories and let there be the advanced, the intermediate and the scheduled classes and then the other backward classes. Today there is no demand for any special or preferential treatment. Tomorrow a resolution will be brought in saying "Now that we are not joined with the other backward classes, give us this, that

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and the other thing." To that I am pointing out, as they are classified today with the backward classes, in the matter of education and in the matter of representation on the local bodies, they are not at all prejudiced. They are quite well off, better off in fact than they would otherwise be.

Then, Sir, we come to the question of the services. Now, I draw the attention of honourable members to the Resolution of the Finance Department which was issued on the 24th October 1934. That lays down the proper proportions. It says :

"Government are pleased to accept the recommendations contained in paragraph 2 of the Commissioner's letter, viz., that not less than one in every ten vacancies should be given to the backward classes provided that suitable candidates are available, until their strength is 5 per cent. of the total clerical cadre in each department.

Government are also pleased to accept the recommendations contained in the last paragraph of the Commissioner's letter. The minimum percentage of recruitment from the Intermediate and Backward Classes should henceforward be as follows :

Here follow the percentages in the various localities, and the backward classes have been given 10 per cent.

Dr. P. G. SOLANKI: Among the backward all these people are coming in.

The Honourable Mr. B. G. KHER: Among the backward for the clerical and other staff I do not think there is even one per cent. or one person from the aboriginal or hill tribes who have got any chance. I have now asked that figures should be collected as to the particular division of the backward classes to which those who have been recruited in the public services belong. The honourable member will realise that these figures have to be got from a large number of departments. It is obvious that it is only those who have received some education—I think in the matter of educational facilities the members of the scheduled classes are receiving a preferential treatment—it is only those who are being taken up. In the inferior services, I do not think any members of the aboriginal tribes and hill tribes are seen as pattewalas.

Dr. P. G. SOLANKI: They are.

The Honourable Mr. B. G. KHER: I beg to differ. I have to point out by giving figures to the honourable member that the scheduled classes, compared with the other two categories of the backward classes, do not suffer.

But I would like to put it on a higher ground. I know in this unfortunate country of ours we have got all these divisions. How far are we going to carry this principle? After making a separate category of the scheduled classes, the honourable member will come up and say "You have now classified us along with the other scheduled castes. The Mahars are in a larger number there. Therefore, among the scheduled classes please have another category and put the Chamars in a separate category".

Dr. P. G. SOLANKI : It is done at present.

The Honourable Mr. B. G. KHIER : It is not done at present. They are all in one category. I quite agree that there are lists. But how far are we to carry the principle of separate classification and make divisions and further divisions ? Already there are these 4,000 castes. What is your idea ? To multiply them ? I have pointed out to the honourable member that creating a separate category of scheduled castes is not going to help him in achieving his object in any way. I quite agree that in the matter of recruitment to the public services, in the matter of general treatment and the amenities provided at the expense of the State the scheduled classes ought to get a larger share. And, as the honourable member knows, questions are put day after day, attempts are made day after day to see that recruitment to the public services is made in the proportion that has been laid down. The honourable member from Poona who spoke said that like the ostrich Government have put their head in the sands, and asked, where are the Mahomedans ? I do not think anybody will in these days permit Government to bury their heads in the sands. Hardly a day passes without, practically on every question, a member of the Independent Labour Party or of the Muslim Group springing up in his seat and asking "What about the Mahomedans", or "What about the depressed classes and scheduled classes ?" And every day we see resolutions and motions from a community which is now very, very vigilant as regards their getting a due proportion in all the services and of the facilities that are to be had from the State. Therefore, I submit that I have shown to the honourable member and, I hope, to the House that, at least so far as education is concerned, every consideration is shown to these classes, and that is the most important thing. He will agree that, if anything will succeed in obliterating these divisions, in raising this unfortunate class to their due and proper rank in the hierarchy of the Hindu community, it is education. Today my honourable friend is here, and he will see that there is not a single member here who does not look upon him if not as his superior at least as his equal in every respect. What is it due to ? It is entirely because of his education. He also knows to what the honourable member Dr. Ambedkar or the members who occupy the benches of the Independent Labour Party owe their position. It is purely and simply due to their education. If, therefore, in the matter of education they are making an advance and Government is giving them all these facilities and special facilities, I think the sooner he casts off his suspicion and the sooner he gives up this attitude of separatism and wanting to make untouchability more untouchable, the better it will be not only for the scheduled classes but also for these other classes who call themselves touchables.

During 1937-38, as I pointed out, so many special facilities were afforded by Government to the scheduled classes alone. I may mention some of them here. Today there is full freeship to all the scheduled class students in Government secondary schools, full freeship to every

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scheduled class student in all Government secondary schools. He is not charged any fees even for his secondary education. Very well. It is full freeship in addition to a scholarship to all the scheduled class students in all colleges. Each one of them is studying now at the expense of the State; he has not to pay any fee, and not only so, but he is in addition given a scholarship for his expenditure. The honourable member knows that these are facts.

Dr. P. G. SOLANKI: No, Sir. I draw your attention to the case of one college student who does not get.

The Honourable the PRESIDENT: The honourable member need not offer a running commentary, if he has got anything to enquire of the Prime Minister during the course of the discussion. I have often said that the Prime Minister is entitled to put his case and his facts and figures uninterrupted by any member of this House, and I would like this ruling to be observed in practice.

The Honourable Mr. B. G. KHER: I know what the honourable member has in view. There is a certain student, I believe, who is supposed to have come from an Indian State.

Dr. P. G. SOLANKI: Shall I have the right of a reply?

The Honourable the PRESIDENT: No, he will not have a right of reply at present. He is replying now. What the honourable member is doing is that he is carrying on a sort of conversation across the table, and I cannot permit it. I dislike these interruptions. Whatever the honourable member has to say he may say after the Prime Minister has finished. I cannot allow these interruptions by which the whole course of the discussion is frustrated, and interruptions do no good.

The Honourable Mr. B. G. KHER: I say it again, Sir, that full freeships and scholarships are given to all the scheduled class students in colleges. When I was saying this, the honourable member said, no. My attention has been drawn to the case of one student who is not getting it. As far as I remember, in that case the parents of the students are supposed to belong to some Indian State, and therefore a dispute has arisen whether he is eligible for the scholarship. Assuming such a student is there, about whom there is a dispute, I think that exception will prove the correctness and accuracy of what I am saying, that the rule is what I have just now stated it to be. To the best of the knowledge of the honourable member himself there may be a case where there has been some dispute about the eligibility of the student; but, if he draws my attention to it, any difficulty in the way of the student will be removed. The point is that every student of the scheduled classes is today enjoying a full freeship as also a scholarship. Those are the orders passed. Then they are getting free accommodation in Poona in the well-known Union Boarding House. That is another facility for them. Then there is the grant of Rs. 10,000 for providing water facilities for them in the Central and Southern Divisions. I am only mentioning

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them as a few of the facilities provided for the scheduled classes, not for the backward classes. So that the honourable member will realise that Government take due account of the fact that untouchability has its own disadvantages and that these must be removed at the earliest possible stage, and that as far as possible steps must be taken to see that the legitimate grievances of the minorities are removed. After this, I fail to understand how classifying the scheduled classes into a separate category by themselves, which is the object of the resolution of the honourable member, is going either to improve the condition of the untouchable classes or the scheduled classes, or how the honourable member expects that his community will get any special benefits.

So that, as the resolution stands, Sir, I have no alternative but to oppose it. I would again request the honourable member not to listen to the advice that was given to him from some quarters not to leave this matter to the *bona fides* of those who are in power, but to insist on a further resolution and other measures. Resolutions on the subject have already been passed, but the complaint made by the honourable member from Poona is that these resolutions are not being observed. If resolutions are not carried out, then we have to see that they are carried out, we have to see that the orders of Government are given effect to. But that is another question. For the present, it is enough for my purposes to show that it is not at all necessary to split up the category of backward classes further, to take out the scheduled class category from that class and to make a fourth division instead of the present three divisions. I therefore oppose the resolution of the honourable member.

The Honourable the PRESIDENT: If the honourable member Dr. Solanki will confine himself to the points raised in the course of the debate and also to the points raised by the Honourable the Prime Minister and just tell him that this matter can be adjusted, he may do so.

Dr. P. G. SOLANKI: Sir, I thank you very much for giving me this opportunity. The replies which the Honourable Prime Minister gave to the points that I had categorically raised have not satisfied me at all. On this question, when I pressed for the population basis, he said that there were 1,680,000 members of the Scheduled Castes, and the population of the aboriginal hill tribes was 1,269,000. That is to say, there are about 17 lakhs of the untouchables. Then he said that there are about 8,32,000 other backward tribes. In all he said that the total population of all these untouchables and backward class tribes was about 38 lakhs, out of the population of the Bombay Presidency which is about 2 crores or 18,000,000. Now, the Honourable Minister was kind enough to say that for aboriginal and hill tribes 1,269,133 people 233 scholarships were provided, but only 31 were taken advantage of. What became of the remaining scholarships? Where did they go? Who took advantage of them?

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In the same way, about the other backward people who number about 8 lakhs, though 140 scholarships have been provided 143 were given. I am happy to see this. Then he also said that though 22 scholarships were provided for other touchable backward, actually 23 were given, that is to say, one more scholarship was given. But look at the ratio. For about 17 lakhs of untouchables a few hundreds of scholarships were given, and the Honourable the Prime Minister believes that this is a very generous mode of giving scholarships to us, and in spite of the fact that I am saying that we have been handicapped, the Honourable the Prime Minister believes that if the untouchables are classified and separated they will be the losers. How we shall be losers when we get the scholarships on the population basis, I do not know. Sir, on population basis the aboriginals and other backward tribes are not able to take the fullest advantage of the scholarships that are provided at present. I propose that the scheduled, the aboriginal and hill tribes and other touchable backward should get the scholarships and other privileges earmarked for each group on population basis, and in case one group out of these three is not able to take full advantage of the scholarships and other rights then the scholarships not utilised should be given to the group of the scheduled classes whose number is large and scholarships limited.

Sir, may I ask for whose benefit these 203 are taken away from the Aboriginals and Hill tribes? I am afraid these are used for advanced and other classes. They are not utilised for the benefit of the untouchables, but they are given to the overfed and well looked after advanced class. In such matters the whole thing depends upon the sweet will of the officers of the Educational Department, for example, Educational Inspectors and the like. Then the Honourable the Prime Minister had been kind enough to show to us that in the past only the scheduled class people were either nominated or elected on school Boards. But during the last fresh elections of the District Local Boards and other bodies what do we find? In Gujarat, in the Surat District, only one or two men from the Scheduled classes came by election, and in the Kaira District all the excluded area and aboriginal people who came in were, as stated by the Prime Minister, returned by this new arrangement, that is, on the population basis, whereas in former days the seats on these and scheduled class population was usurped by the advanced classes. However, the number of such candidates might be about half a dozen, or 7 or 8. Sir, under the new arrangements, the demarcation of the areas and the division and distribution of seats in each district is so cleverly done that the scheduled class candidates cannot come in their full quota of their population basis. That is, of course, the present Government's very clever move to give as few seats to the scheduled classes as possible even though they can claim greater number of seats on population basis.

Another thing is about the services. The Honourable the Prime Minister had been kind enough to show to us that even in services the

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proportion of these people is 1 in 10. That is to say, for 10 persons from the advanced and intermediate classes, one from the backward class should be selected. But where is the guarantee that the scheduled class candidates will be taken? Under the name of backward, the touchable backward and other minority candidates are selected and the scheduled caste candidates are ignored. Our experience is that at the cost and sacrifice of the scheduled class deserving candidates, the advanced class and other community candidates are taken. I will just cite one example. There was an advertisement by the Government for filling up vacancies of Subordinate Judges last year in the districts. Some very deserving and highly educated candidates from the scheduled castes applied for the post, but to our dismay and disappointment none of the scheduled caste candidates was selected but, candidates from the advanced and other classes were taken, though they were in no way superior to any of the candidates from the scheduled castes. The past Governments and this Government have been always saying that they are for the cause of the Scheduled Classes, they are very anxious to lift them up, they are for bettering their economic condition. With all these outward lip sympathies in the past, nothing substantial has been achieved. In spite of the Honourable the Premier's personal sympathy for the Scheduled Classes, I am taken aback to see the way in which the Prime Minister has brushed aside this subject without alluding to the suggestions which I have made in my speech. This act of his and his words have not convinced me at all and this question will be a burning question for all times in future when we shall have occasions myself and the Prime Minister—to settle this question. His arguments have not convinced me and much less will they convince the bulk of the population of self-respecting scheduled caste people in the Presidency. Do you really want to meet us, to satisfy our demands, to win us over or do you want us to be in the opposite camp, away from you always? I find to my great dismay and disappointment that the Prime Minister, who, I thought, would at least make a gesture in regard to the alternative suggestions which I have made, has not done so. From the beginning I have made it clear that I would not insist upon creating a separate category for the Scheduled Castes, but I would be satisfied if he were to issue orders and direct his subordinates and officers to give all facilities to the Scheduled Classes in all matters pertaining to them on their population basis. But to my great disappointment and dejection—I am sorry to say that today I am totally disappointed by the Prime Minister.

I, therefore, press my resolution for voting.

The Honourable Mr. A. B. LATTHE: Sir, if my honourable friend Dr. Solanki felt very much disappointed with the answer given by the Honourable the Prime Minister, let me say that I rise with a sense of dismay when I rise to try to convince my honourable friend that he has misunderstood the whole position entirely. [Interruption.] I did not interrupt the honourable member (Dr. Solanki) and I hope the

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honourable member will try to catch the point which I want to make out. The real point is whether the Depressed Classes are going to benefit by their being separated from the hill tribes and the aboriginal people included among the backward classes. That is the only question which we have to consider while we are on this subject. My honourable friend (Dr. Solanki) says that, if the Depressed Classes are separated, they will benefit more. Now, the Prime Minister has shown from the figures that if the Scheduled Classes had been treated separately, they would have got a certain number of scholarships in proportion to their population. Instead of getting scholarships on this basis, they have actually got about a hundred scholarships more; and instead of understanding the significance of this fact, my honourable friend (Dr. Solanki) asks certain questions which are absolutely irrelevant. He asks "Where did these scholarships go?" Well, they came from the other communities and went to the Scheduled Classes. They came out of the pockets of other people and went into the pockets of the students from the Scheduled Classes. Then my honourable friend (Dr. Solanki) referred to the total population of the Bombay Presidency and said that out of nearly two crores of people, these three sub-classes together constituted about 30 to 40 lakhs. I do not know what this has to do with the rest of the population. The rest of the population does not get any scholarships of this kind. The intermediate communities are given a few scholarships, but proportionately they are very much less than the scholarships given to the Backward classes. The advanced communities get no scholarships. So there is no question of any comparison with the total population and the scholarships that come to these communities. The only question is that if 100 scholarships are to be given to the backward classes as a whole, what is the share of the scheduled classes? Do they get that proportion or less than that proportion or more than that proportion? The clearest possible answer is that they are getting more than what they would be entitled to if they were treated separately. We are not sorry that they are getting more. They are getting more because the hill tribes and the aboriginal people who come under this term "backward classes" are not coming forward to take advantage of the scholarships offered to them and therefore naturally they are given to the backward classes. We are very glad that they are getting the benefit of this unused money. The point is they have no reason to complain about their being lumped together with the hill tribes or the aboriginal communities. The third category of people are getting nearly the share to which they are entitled. The second category are not taking advantage, not that they are denied it. But without being denied, they are not able to take advantage because they are more backward in education and naturally the advantage which they cannot take or utilise goes to the scheduled classes and the separation of the scheduled classes from the category would, in no way, be advantageous to them. It will be really injurious to them from the educational point of view.

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I do not wish to touch the question about the elections. That is a separate thing and I think that it does not come within the scope of the present resolution. About the services, as the Honourable the Prime Minister has stated, the figures we have not, but my own impression is that the aboriginal and the hill tribes which are so backward in education that they cannot take advantage of the scholarships offered to them cannot in ordinary course be expected to get the posts which were due to the scheduled classes. I do not believe that they could do so. Probably I may admit that in filling certain posts, the higher officers might be thinking that the candidates coming from the scheduled classes may not be exactly what they expect them to be. That may be an opinion which these officers may be forming quite in good faith or it may be due to the prejudices which these officers may have had. I might tell my honourable friend of certain instances. I have heard European officers holding very high ranks in the services saying that the scheduled class people and the people from the intermediate communities as well, do not come up to the standard and so they would prefer to recruit people from the advanced communities. I have heard this not from Brahmins, but from very high European officials holding Commissioners' posts. It is not that I hold that view, but I may tell my honourable friend that it is the view of those who recruit. It is likely that though there may be a good candidate from the scheduled class, he may be rejected for some reason or other. In cases of that kind, the best remedy is to invite the attention of the Minister concerned to these things and, if our assurances are acceptable to my honourable friend, I assure him that every Minister will try his utmost to see that justice is done to the scheduled classes and every attempt will be made to see that a qualified candidate from their community is given a fair treatment.

I do not think beyond this it is possible for any human being to say anything. If my honourable friend wants to press his motion to a division even after this, he is welcome to do so.

Resolution put, and negatived.

RESOLUTION REGARDING CONSTITUTION OF AN ECONOMIC AND INDUSTRIAL COUNCIL.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban
7 p.m. District): Sir, I beg to move:

"This Council recommends to Government to constitute an Economic and Industrial Council for the purpose of collaborating with all Provinces with a view to start, establish or develop such industries as, having full regard to the easy availability of raw materials and the markets for the finished products, can be successfully developed, keeping in view the special objective of establishing co-operating and complementary industries."

Question proposed.

Mr. B. N. KARANJIA: Sir, my resolution is an absolutely innocuous one, and I hope that each and every member of this House will support

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it. I hope also that even Cabinet Members will support me, because I am giving them a suggestion which will strengthen their hands in doing something which will be in the interest of the country. In removing mass poverty, I think this resolution will help the Cabinet very much. I feel sure that all the other Congress Provinces will join our Province and make a joint effort for the industrialisation of our country. If all the Provinces join together and if an Economic and Industrial Council is constituted, this Council will be able to collaborate with the other Provinces in regard to details and settle upon the ways and means to develop the industries of our country, so that the schemes that are put forward in collaboration with other Provinces will benefit our Province. Today, what we find here is that due to certain taxation, the cost of production has increased. I think this is economically unsound and arithmetically unsafe. I can give one concrete instance of France, which will be a lesson for our Cabinet to learn. In France, the Blum Government increased the wages of labourers, reduced the hours of work from 64 to 40, and as result of these reforms, the cost of production in France increased by 10 to 20 per cent. Even holidays were given with pay and this further increased the cost of production by 4 to 5 per cent. The 40-hour week gives them a rise of 25 per cent. in wages. Taking the sum total of all these, it comes to 40 to 50 per cent. rise in wages in those particular industries, and the result was that cost of production was increased. In the same manner, I think, our industries also would be paralysed by the heavy charges levied by way of taxation. In that way, we would not be able to compete with the foreigners. Only yesterday, the question of hours of employees was discussed elsewhere and we were told that in some countries the labourers work 12 hours a day; in spite of the Washington Convention, they also employ children to maintain their parents. That is what is being done in other countries. Whilst in India we are making production costly by devising such costly methods. But that is only a side issue. My point is that in India one province is competing with the other. Bengal is jealous of Bombay's progress; Bombay may be jealous of Sind; one province is jealous of the other provinces. Why not a Council be appointed through which all the Provinces can be brought together for purposes of mutual help and co-operation?

Now, I shall give instances to show how capital is attracted if protection is given. Sir, when I was President of the Indian Merchants Chamber, the question of sugar protection came up. We used to import sugar from Mauritius and from Java and also from Hongkong. Then they gave protection to the sugar industry for 15 years. No sooner that announcement was made than capital came in and sugar factories were started. It is our misfortune that over-production has started. But I say that capital will come in if you give facilities to industrialists. Then, Sir, take the match industry. The duty on matches was at first only 20 per cent. As soon as it was raised

[Mr. B. N. Karanjia]

to Rs. 1-8-0 per gross, capital came forward to start match factories. I have given you the instance of France, where industrialists were handicapped and on that account production was paralysed. Now, take Belgium, where the case is different. The Belgian Government helped the industrialists with loans to the tune of 1,000 million guilders, and industries prospered there. If our Ministry wants to finance industries, they can raise a loan. They are prepared to raise a loan for constructing roads. Why not raise a loan and help the industrialists in this province? Now, the time is up. I would only request those other provinces which are absolutely under Congress control to collaborate with one another and adopt some settled schemes of industrialisation.

I will give one instance how impediments come in the way of our economic development. I have got a letter here from Messrs. Powell and Company. Suppose that Bengal or Madras wants to import certain medicines which are prepared by Powell and Company or any other company in Bombay. The company has first of all to report to Madras or Bengal authorities that the medicine they prepare contains so much of alcohol. The company has to apply to the Excise Department of that Province and get permit; and they have to pay the duty which may come to about Rs. 7-8-0 and then export the medicine. This takes from 30 to 40 days. Suppose there is already collaboration among all the Congress Provinces, the despatch of the goods manufactured here will be expedited and the goods manufactured in other provinces can be imported with equal expedition. In this way, there will be a free exchange of manufactured goods or raw materials between the Provinces. This can only be done by mutual collaboration and agreement. Otherwise, what will happen is that each Province will think why they should lose the benefit by adopting this practice and by jealousy the result will be that the foreign countries will be benefited and they will dump their goods into our country. The other day, at the meeting of the Federation of Indian Merchants Chamber, which was held at Delhi, Mr. Amin of the Alembic Chemical Works made a grievance of this handicap. I am giving this one instance which has come to my knowledge. There are so many other manufacturers who are suffering from these handicaps. Our resources are very great and we can develop industrially. Take, for instance, pencils, slates, rayon and many other industries which we can run in our Province. By opening an Economic and Industrial Council as I have suggested in my resolution, we can come to certain agreement with the other Provinces and drive out foreign competition. Also we can work in a friendly manner, I mean all the Provinces, as sisters. So, all these impediments can be removed.

Lastly, I wish to give one instance of what happened in New Zealand, Mr. William Shaw is the Finance Minister and he was also the Prime Minister of that country like our Honourable Prime Minister. He said in the open Council that Government would not allow any necessary

[Mr. B. N. Karanjia]

industrial job to be held up for want of money, and Government's policy was to obtain the maximum utilization of the available productive resources of the dominion and if the existing volume of trade was insufficient or not utilized to that end, further loans would be made available. Why should not our ministry also do the same? They may raise loans if capital is not forthcoming. Our forests are not fully developed, and we have other sources of wealth to develop. Sir, there is the rayon industry. Rayon was introduced as a commercial product only in the year 1903 or 1904. In a short period of 34 years, each and every country in the world—except India—is manufacturing rayon yarn. India can manufacture it. Rayon is manufactured out of cotton waste and sugarcane bagasse. We have got the necessary raw material. But what is required is mutual co-operation.

With these words, I hope this innocuous resolution will be passed by this House unanimously.

Mr. RATILAL M. GANDHI (Bombay City *cum* Bombay Suburban District): Sir, I have great pleasure in giving my full support to the resolution moved by the honourable member Mr. Karanjia. I fully realise, Sir, that while the honourable member was moving his resolution, he had his eye on the clock, and I think while I am addressing the House I should also keep my watch on the clock, because I understand that this day's proceedings will be over by 7-30 p.m.

The mover, the honourable Mr. Karanjia, has said that this resolution is innocuous, and I may say that it is also non-contentious. I have not the slightest doubt that this resolution will have the unanimous support of this House, because there is nothing in it which will give rise to any opposition. I have, Sir, with me sufficient literature which I can place before the House in support of this resolution. The honourable mover, Mr. Karanjia, has referred to the annual session of the Federation of the Indian Chambers of Commerce and Industry, and I will, for the information of the House, mention that the Federation at its last annual session took up the subject-matter of this resolution as a most important subject to be dealt with, and passed two resolutions, which I should like to read before the House. One resolution is headed "Planning of Industries", and reads:

"This Federation is of opinion that with a view to conserve and utilise to the best advantage the meagre financial resources of the country, and having regard to the haphazard development of some of the indigenous industries, such as jute, flour and sugar, the Government of India should, in the greater interest of the country take initiative in collaboration with the provincial administrations, to devise suitable

[Mr. Ratilal M. Gandhi]

machinery for reviewing the development of indigenous industries and for evolving a well laid out plan for their systematic expansion."

There was another resolution having a bearing on this subject. The heading of that resolution is "Industrial Research" and it reads as under:—

"This Federation draws the attention of Government to the need of proper industrial research for the utilisation of the economic resources of the country and suggests that such research should be directed to practical objects and should be related to the industrial needs of the country and that its results should be given as wide publicity as possible. This Federation also recommends that the industrial research bureau should have a larger element of non-official representation of commercial and industrial interests so as to make it a more useful body and that its activities should be mainly directed towards the achievement of the abovementioned object."

Sir, I was present at this session and my mind is full of all the ideas and the arguments which could be advanced in support of this resolution, but I do not propose to take more time of the House as I do not desire that it be carried forward to the next session. I think that this resolution is very important and should be passed to-day and now. Therefore, even though I have in my possession sufficient literature from which I can quote and about which I can speak, I shall only mention certain articles which have recently appeared in the newspapers and be contented. I may draw the attention of the honourable members of this House to a very learned article appearing in the "Indian Finance" of March 26 where—

The Honourable the PRESIDENT: I wish to correct the misimpression on the part of the honourable member. If he desires that this motion should be voted upon and passed, then he had better curtail his remarks. Otherwise, after the time is over, the motion will be talked out and it will not be carried further to the next session.

Mr. RATILAL M. GANDHI: Yes, Sir. I do not wish that this resolution be taken over to the next session. It is my desire that it be voted upon to-day. So, I do not propose to prolong my remarks and I commend this resolution to this honourable House.

The Honourable Mr. L. M. PATIL: Sir, the main object of this resolution moved by the honourable member Mr. Karanjia seems to be to seek the co-operation of other provinces for the industrial development of this country. Really speaking, this is a subject which ought to be taken up by the Government of India because even if we pass this sort of resolution, we cannot compel other provinces to co-operate in everything for the purposes of the industrial development. As far as possible, no doubt the Government will try to seek the co-operation and help of the Governments of the other provinces for this purpose. The co-operation of the other provinces can be sought for the purpose of finding out the raw materials of the different provinces, for having marketing facilities for the products which are produced in our province

[Mr. L. M. Patil]

and also to co-ordinate the efforts in the direction of experiments in the different industries. The Government have already issued instructions to the Department of Industries to have an eye on the experience gained in other provinces on various questions regarding the industries. I will shortly tell what the Government intends to do regarding the formation of a Committee or a Council. Government have already given thought to the appointment of a Committee for carrying out an economic and industrial survey of the province. The personnel and the terms of reference have already been fixed and a communique will be issued within a day or two giving the personnel and also the terms of reference. The Committee will carry on the industrial survey of our Presidency and find out what are the raw materials in our province.

Mr. B. N. KARANJIA : But that will be only for our Presidency.

The Honourable Mr. L. M. PATIL : The Committee will examine the present position of small industries in the Province and report their place in the provincial economy in relation to agriculture and large industries and it will suggest methods to promote economic development of our province.

Then Government have also under consideration the constitution of a Standing Industrial Advisory Board. The personnel of that Board is nearly fixed. The functions of that Board are also decided. A press note giving the personnel and functions of this Board will be soon published. The functions of that Advisory Board will be to advise Government on different schemes and proposals that are submitted by the Industrial Department, and also to advise Government on the general policy regarding the development of industries and such other matters that will be referred to the Advisory Board. At this stage I can say that Government will no doubt take the advice of this Industrial Board on the question of seeking co-operation and help from other Provinces for the purpose of developing the different kinds of industries. We should always try to seek the co-operation of other Provinces. But such co-operation will always depend on their willingness. The Industrial Board to be appointed by the Government will try to achieve the aim of the present resolution.

I hope in view of the explanation that I have given the honourable member Mr. Karanjia will withdraw his resolution.

Mr. B. N. KARANJIA : Sir, I thank the Honourable Minister for giving this assurance, and in the light of what he has stated, I think it is for me to withdraw the resolution and I accordingly withdraw it. However, I wish to make one observation and that is: when such a Committee is appointed it should work on the lines that I have suggested and it should also elicit the opinion of the Indian Merchants'

[Mr. B. N. Karanjia]

Chamber. If the Committee works on these lines, I shall be highly obliged. I therefore request the House to grant me leave to withdraw my resolution.

Resolution, by leave, withdrawn.

The Honourable the PRESIDENT: There are only two minutes to the time of rising and I think if we begin with the next resolution it may not be even fully read within the two minutes. So, if the honourable members wish, we will better adjourn now.

The House then adjourned till 2 p.m. on Monday, the 25th April 1938.

Monday, the 25th April 1938.

The Council re-assembled at the Council Hall, Bombay, on Monday, the 25th April 1938, the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir.
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HALDIPUR, Mr. S. R.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, Khan Saheb A. A.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MARWADI, Mr. P. S.
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 STONES, Mr. FREDERICK
 VIRKAR, Mr. M. B. -

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT : The first Bill on the agenda paper is the Probation of Offenders Bill. But I had understood from the honourable member Mr. Joshi that as he would not be able to come to-day, he did not want that Bill to be taken up to-day. That arrangement stands, and the Bill will not be taken up to-day. It is due to a misunderstanding that it has appeared first on the agenda. We will take up the second Bill, and after that is over, we will hear the views of Government as to the business for to-morrow and the day after.

**BILL No. XIV OF 1938 (AN ACT TO AMEND THE INDIAN
LUNACY ACT, 1912, IN ITS APPLICATION TO THE
PROVINCE OF BOMBAY).**

Mrs. HANSA J. MEHTA (Bombay City *cum* Bombay Suburban District) : Sir, I introduce Bill No. XIV* of 1938 (an Act to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay) as read for the third time and passed by the Legislative Assembly on the 13th April 1938.

The Honourable the PRESIDENT : The Bill is introduced.

Mrs. HANSA J. MEHTA : Sir, I now move that the Bill be read for the first time.

Question proposed.

Mrs. HANSA J. MEHTA : Sir, as the statement of objects and reasons explains very clearly, this amendment is necessary for two reasons. In the present Act, there is no provision for the temporary discharge of lunatics. Such a discharge is necessary on two grounds. The first ground is that if the superintendent of a mental hospital feels that such a discharge will hasten the recovery of the patient, then it becomes necessary. The second ground is, if the superintendent is not quite sure whether the patient has quite recovered or not, he would like to apply the test, namely, temporary discharge, and to find out whether the patient is able to adjust himself to his usual surroundings. These are the two grounds on which this amendment is sought for.

I should like to explain to this House the difference between the ordinary hospitals and the mental hospitals. In an ordinary hospital the authorities have the right to admit patients and also the right to discharge them, but in a mental hospital the superintendent has no right either to admit or discharge patients on his own. A patient is admitted after a very cumbersome procedure. He can be detained if his nearest relative petitions to the magistrate. That petition has to be accompanied by a certificate from two medical officers. On the petition, if the magistrate is satisfied that the person should be detained, he issues such an order. That is for the ordinary lunatic.

There are lunatics who are found wandering about in the streets. In their case a police officer has to petition to the magistrate that the lunatic is a danger to public safety. On that petition also, if the magistrate is satisfied, then he issues an order for detention.

Thirdly, if a lunatic is cruelly treated or neglected by his relatives or friends, any person or a police officer can petition to the magistrate, and if the magistrate is satisfied that the statement is true, such a person can be detained in a mental hospital.

The same procedure applies when a lunatic has to be discharged. A person can be discharged if three members of the Visitors' Committee including a medical person give in writing that such a person is fit to be discharged. Or under section 33, if the person who has applied for the

* Appendix 7.

[Mrs. Hansa J. Mehta]

detention of the patient applies for his discharge, then, if the magistrate finds that the person is not dangerous, such a person can be discharged. But in the case of lunatics detained under sections 14 and 15, that is, those who are wandering about or those who are neglected, the relative or friend has to apply to the authority under whose order the person is detained in a mental hospital. All this procedure is very cumbersome. For the reasons stated in the statement of objects and reasons, if a person has to be temporarily discharged, there is no provision for such discharge. A person is discharged on the application of his relatives, but supposing he has a relapse, then for his detention again the same procedure has to be gone through, that is, the person has got to apply to the magistrate and the magistrate has to certify. In order to facilitate temporary discharge of a person, this amendment is called for, and I hope that the House will accept it.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar): Mr. President, I support the first reading of this Bill, because the principle that is involved is a good one. It is in the fitness of things that when first offenders come in for the kindness of the Government, the lunatics, whose fate is really bad, should also come in for it, and as there is an act of kindness involved in this amending Bill by which persons can easily get the release of their relative from a lunatic asylum, I have great pleasure in supporting this Bill.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I also support the amending Bill, because I hold that once a lunatic is discharged, if after some time he has to be sent back to the asylum, a very cumbrous procedure has to be followed. He has to be produced before a magistrate, certified by the Police Surgeon, and so on. If the amendment proposed in this Bill is carried, then the cumbrous procedure will be eliminated. It is in the interest of the public that this amendment should be passed.

Sir, I had the case of a lunatic who was sent to an asylum. After some time the authorities of the asylum found that he was quite all right and he was sent back. But after about two or three weeks it was found that he was again of the same temperament, and when it was necessary to send him back to the asylum, the authorities asked for a further examination, because the order of the Police Surgeon was valid for 14 days, and it was necessary to go through a long procedure before the person could be sent back. Therefore, I think the proposed amendment will be welcomed by the public.

Question put, and agreed to.

Mrs. HANSA J. MEHTA: Sir, I move that Bill No. XIV of 1938 (An Act to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay) be read a second time.

Question put, and agreed to.

Bill read clause by clause.

The Honourable the PRESIDENT: We will now take up the Bill clause by clause. But, before that, I will explain to the honourable members what is passing in my mind. There was some difficulty which

[The President]

I felt in my mind as to the drafting of sub-clause (2) of clause 2, and I am waiting for the Legal Remembrancer to come. I will tell the honourable members when we come to clause 2 how the difficulty has arisen in my mind. I will put clause 1 for the present.

Clause 1 (*Short title*) ordered to stand part of the Bill.

The Honourable the PRESIDENT: I will explain to the honourable members the difficulty which I am feeling. Sub-clause (2) of clause 2 runs like this:

"No order under sub-section (1) for the temporary release of a lunatic detained under section 7 or 10 shall be passed except on an application of the petitioner on whose petition such lunatic was detained or without the consent in writing of such petitioner."

This clause thus contemplates only the petitioner on whose application the order for the detention of the lunatic was made. It contemplates nobody else. Now, sub-section (1) of section 11A gives the power to appoint a substitute for the person, that means the petitioner, on whose application a reception order has been made. Sub-section (1) runs like this:

"The Magistrate may, subject to the provisions of this section, by order in writing (hereinafter referred to as an order of substitution), transfer the duty and responsibilities under this Act of the person on whose petition a reception order has been made to any other person who is willing to undertake the same and such other person shall thereupon be deemed for the purpose of this Act to be the person on whose petition the reception order was made, and all references in this Act to such last mentioned person shall be construed accordingly."

It may happen that the strict words may mean only the petitioner, but there is the substituted petitioner in sub-section (1) of section 11A.

Mr. N. D. DEODHEKAR: Sir, the petitioner can include that, because that is only a substitute which is just like having powers of an attorney.

The Honourable the PRESIDENT: Yes, now there is no difficulty. The word "petitioner" means a substitute for him also. I will now put clause 2.

Clause 2 (*Insertion of new section 33A in Act IV of 1912*) ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

Mrs. HANSA J. MEHTA: Sir, I move that Bill No. XIV of 1938 (An Act to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay) be read a third time and passed.

Question put, and agreed to.

The Honourable the PRESIDENT: Bill No. XIV of 1938 (An Act to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay) is read a third time and passed.

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT: To-day we have not got any work now, and for the non-official work, there are two Bills by Mr. Joshi and one by Mr. Shah about Insolvency. The latter Bill I understand is only for introduction. So, we will take the non-official Bills to-morrow, and the day after, we will take up the Bill about the release on probation of offenders.

The House then adjourned till 2 p.m. on Tuesday, the 26th April 1938.

Tuesday, the 26th April 1938.

The Council re-assembled at the Council Hall, Bombay, at 2 p.m. on Tuesday, the 26th April 1938, the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
BHOSLE, Mr. M. G.
CURRIMBHOY EBRAHIM, Sir
DAVAR, Professor SOHRAH R.
DEODHEKAR, Mr N. D.
DESAI, Mr. DADUBHAI P.
DESAI, Mr. NARSINGRAO S.
DESAI, Sardar Rao Bahadur CHANDRAPPA B.
GANDHI, Mr. RATILAL M.
GUIDO, Mr. T. M.
HALDIPUR, Mr. S. R.
JOSHI, Mr. S. C.
KARANJIA, Mr. B. N.
KHAN, KHAN SAHEB A. A.
MAHAJANI, Dr. G. S.
MAKAN, Khan Sahab MAHOMED IBRAHIM
MARWADI, Mr. P. S.
MEHTA, Mr. CHINUBHAI L.
MEHTA, Mrs. HANSA JIVRAJ
PATANKAR, Major Sardar BHIMRAO NAGOJIRAO
POTDAR, Mr. B. B.
SHAH, Mr. SHANTILAL H.
SOLANKI, Dr. P. G.
SOMAN, Mr. R. G.
STONES, Mr. FREDERICK
VIRKAR, Mr. M. B.

The following Honourable Ministers were also present :

The Honourable Mr. MORARJI R. DESAI

The Honourable Mr. L. M. PATIL.

STARRED QUESTIONS AND ANSWERS

PERCENTAGE OF THE DEPRESSED CLASSES IN THE GOVERNMENT SERVICE.

*Dr. P. G. SOLANKI : Will the Honourable the Prime Minister be pleased to state—

(a) what is the percentage of the Depressed Classes in Government Service to the Higher Castes ;

(b) how far the policy of giving preference to Depressed Class candidates is followed in the selection of the candidates ?

Mrs. HANSA J. MEHTA : (a) and (b) The percentages of the Backward classes (which expression includes the Depressed Classes) to the total clerical cadre as on the 1st April 1936 and 1st April 1937 were 2·07 and 2·66 respectively. 82, 89 and 99 vacancies were filled by members of the Backward classes, respectively, during the calendar years 1935, 1936 and 1937.

The above figures show the extent to which the orders of Government regarding preference to be given to the Backward Classes in filling clerical appointments have been followed in the selection of candidates. The orders of Government are being followed wherever suitable candidates are available. Separate figures regarding the Depressed Classes are not available nor have separate orders been issued in regard to them.

The percentage of the Depressed Classes in the Inferior Services on the 31st March 1937 was 10 if persons employed in the Medical Department are excluded, and 13 if they are included.

Dr. P. G. SOLANKI : Supplementāry, Sir. In my question I have pointedly asked the percentage of the Depressed Classes in Government Service, while to that I get an evasive reply from the Honourable Minister in charge about the Backward Classes. May I know why it is so, Sir ?

Mrs. HANSA J. MEHTA : Sir, Backward Classes include Depressed Classes and Government cannot give separately the number of people from the Depressed Classes in Government Service. The Government Resolution issued by Government is very clear on this point. The Government Resolution says that there are so many Backward Classes and that they should be taken in Government service according to a certain percentage that is laid down. So, it is not possible to give separate figures for the Depressed Classes.

Dr. P. G. SOLANKI : Since when has the wording of the Government Resolution become so very sacrosanct and pious to the Cabinet Ministers that they stick to the wording, while they do not stick to the advantages to be given to the Scheduled Classes ?

The Honourable the PRESIDENT : It is not a question. The answer given is that Government have not kept separate records.

Dr. P. G. SOLANKI : That is exactly my question, Sir. I want to know why Scheduled Classes are always evaded and special account is not given for the recruitment of them ?

Mrs. HANSA J. MEHTA : I do not think it is necessary to do so. If we were to find out the percentage of the various classes, then it will be a very long process. It does not seem to be practicable.

Dr. P. G. SOLANKI : May I tell the Parliamentary Secretary that we have taken special troubles to find out from all these recruitments so far made under the name of the Backward, up till now the officials and the persons responsible for recruiting have recruited the backward and touchable classes and not the untouchables even though the latter were fully qualified to be recruited ? May I know what is the cause of it ?

The Honourable the PRESIDENT : This question does not arise.

Dr. P. G. SOLANKI : Am I to understand that whenever I ask on behalf of the Scheduled Classes, the question does not arise ?

Mrs. HANSA J. MEHTA : Sir, though the question does not arise, I will just reply to the honourable member that the Honourable the Prime Minister replied the other day to the honourable member explaining that wherever the Backward Classes are meant, it is really the Scheduled Classes who take all the advantages, because they get all the special advantages from the Government today. I think the Honourable the Prime Minister explained this to the honourable member the other day.

Dr. P. G. SOLANKI : Here, on behalf of the Scheduled Classes, I maintain that they do not get any advantage, while the Government insists that it is the Scheduled Classes who get all the advantages. Now, how is the difference to be made up ?

Mr. T. M. GUIDO : On a point of order, Sir. May I know if this arises out of the original question ?

The Honourable the PRESIDENT : This is a comment which has been made by the honourable member. I was just asking that the next question should be taken up now.

EMPLOYMENT OF DEPRESSED CLASSES IN GOVERNMENT SERVICE.

*Dr. P. G. SOLANKI : (a) Whether Government are aware that on account of the prevailing custom of untouchability the Depressed Classes persons residing in Districts do not dare to apply for vacant post of even lower grade in Government Department ?

(b) Whether Government intend to inform the Depressed Classes people that their rights to Government services will be recognised and that they can apply for vacant post without entertaining any fear from Caste Hindus ?

(c) do Government intend to follow the policy of giving preference to Depressed Class candidates in selecting candidates to vacant posts and inform the Public Service Commission to follow the same policy ?

Mrs. HANSA J. MEHTA : (a) No.

(b) All persons without distinction of caste or creed are, if qualified, eligible for appointment to Government service and are at liberty to apply for vacancies and it seems unnecessary to emphasize the claims of any particular class or community in this respect.

(c) Government have already issued orders that not less than one in every ten vacancies should be given to the Backward classes, provided that suitable candidates are available, until their strength reaches 5 per cent. of the total clerical cadre. They have also fixed a minimum percentage of 10 for recruitment of Backward classes to the clerical cadre. The Backward classes include the Depressed Classes. These orders are observed whenever suitable candidates are available. Preference is thus being given to these classes as far as possible. It is not necessary to issue any special instructions to the Public Service Commission. It will no doubt follow the orders issued by Government from time to time.

Dr. P. G. SOLANKI : Sir, I am extremely sorry that I have been the only member present here to represent the interests of the Scheduled Classes. If I am to be put down like this without any courtesy, or without any satisfaction on my part, I do not think I shall get any justice for my people.

The Honourable the PRESIDENT : The honourable member is entitled to put questions and not make speeches on those questions. If he wants to put supplementary questions, he is entitled to do so, and, according to the rules, they will be answered by the Honourable Minister concerned.

Dr. P. G. SOLANKI : Sir, I am afraid, I will get the same stereotyped answers. So, I do not want to take the time of the House and waste the energy of the honourable members opposite.

Mr. N. D. DEODHEKAR : Only for the day, or for all time to come ? (*Laughter*).

UNSTARRED QUESTIONS AND ANSWERS.

IMPORTATION OF SANDALWOOD AND A DEPOT FOR ITS RETAIL SALE.

Mr. S. C. JOSHI : Will the Honourable the Revenue Minister be pleased to state—

(a) the total quantity of (i) non-Indian and (ii) Indian sandalwood imported into the Province of Bombay during each of the last three years ;

(b) the average market price of (i) non-Indian and (ii) Indian sandalwood during the last three years ;

(c) whether any proposal for opening a depôt at Bombay for the retail sale of sandalwood was ever considered; and

(d) if the reply to (c) be in the affirmative, the conclusions arrived at?

The Honourable Mr. MORARJI R. DESAI: (a) The amount of non-Indian sandalwood imported from foreign countries into the port of Bombay during the last three years was:—

					Tons.
1934-35	..	..	..	..	172
1935-36	..	..	..	..	131
1936-37	..	..	..	..	210

Statistics of Indian sandalwood imported into the Province of Bombay and of non-Indian sandalwood imported through ports other than Bombay are not available.

(b)

Year.	Class of wood.				Market rate in Bombay.
	<i>Indian Sandalwood.</i>				Rs. per ton.
1934-35	..	..	..	..	1,150
					1,100
					1,000
					775
					900
1935-36	..	..	..	..	1,180
					1,100
					1,000
					804
					850
1936-37	..	..	..	..	1,100 to 1,180
					964 to 1,060
					924 to 964
					724 to 804
					828
					964 to 1,044
	<i>Non-Indian Sandalwood.</i>				
1937	..	..	..	..	300 to 400
					60 to 100

No information is available for other non-Indian sandalwood.

(c) Yes.

(d) There is no advantage in opening a sandalwood depôt in Bombay.

**SUPPLY OF NEW AND IMPROVED VARIETIES OF SEEDS TO
AGRICULTURISTS.**

Mr. S. C. JOSHI: Will the Honourable the Revenue Minister be pleased to state—

(a) the different kind of seeds and the total quantity of seed of new and improved varieties of crops supplied during the last year by the Department of Agriculture to the agriculturists in each district in the Province; and

(b) the cost incurred on account of such supply in the different districts?

The Honourable Mr. MORARJI R. DESAI: (a) and (b) The information required is contained in the statements which are placed on the Council table.*

PETITIONS REGARDING RENT BILL.

Mr. S. C. JOSHI: Mr. President, Sir, before I move for the first reading of this Bill, I hope you will permit me to present to this honourable House a number of petitions addressed to you and to this House, signed by a very large number of tenants of this City, supporting this Bill. They are also signed by me and I am responsible for the contents and the statements made therein, and I assure you, Sir, that the statements made therein are genuine and *bona fide*. If you will permit me, I will present these petitions to this honourable House.

The Honourable the PRESIDENT: The honourable member may present them.

Petitions presented accordingly.

**BILL No. I OF 1938 (A BILL TO REGULATE THE RENTS
OF PREMISES IN THE BOMBAY PRESIDENCY).**

Mr. S. C. JOSHI: Sir, I beg to move that Bill No. I of 1938 (A Bill to regulate the rents of premises in the Bombay Presidency)† be read a first time.

Question proposed.

Mr. S. C. JOSHI: Sir, the necessity and the urgency of a measure to regulate the rents of premises in the City of Bombay and other industrial cities in this Province is very great and cannot be over-emphasised. The tenants living in this City and in the suburbs also and in the other industrial cities have been spending a large amount of their earnings over the rents of the premises they have been occupying and in many cases it has been practically impossible for the poorer and the middle-class

*Kept in Secretary's Office.

†Vide Appendix No. 4 to Volume 2 of B. L. C. Debates (page 404).

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people to have separate premises for themselves. The Congress Party has realised the necessity of regulation of rents and have included this as one of the items in the election manifesto that was issued by it. Even in the statement on the labour policy that was issued in August last by the Congress Government after assuming office, this was included, so far as the industrial workers were concerned, in that statement.

A large number of tenants in these places were expecting that the Government would bring a measure of their own in the near future, but they were sadly disappointed when they found that nothing was done. I was, of course, one of them and I thought that Government might perhaps be too busy and engaged in other work and it might be for that reason that the Bill was not brought by the Government. I therefore gave notice of this Bill with expectations and hopes that Government would support the principle of the Bill, the details being, of course, settled later on after making full enquiry into the conditions of the rents of the premises in these areas. I do hope even now that in spite of the appointment of a Committee that the Government have notified today, the Government will support the first reading of this Bill.

At the outset, I desire to make it quite clear that I do not want the Government or any party to say that all the details in this Bill will be admitted. The details as regards the reduction in rents or various other things may be settled at a later stage of this Bill. The only thing that I want this honourable House to admit or to agree to in this measure at this stage of the Bill is merely to recognise the principle that it is necessary to regulate rents by legislation. The object of my Bill is not to create any class-war, nor do I wish to be hard on any particular class. The main object of the Bill is to secure the much-needed relief to the middle and the lower middle classes in the matter, which is a very important need and which absorbs, as I said at the beginning, a very large portion of their total earnings.

The principle of state intervention, Sir, in the matter of the controlling of rents of premises when the circumstances require such intervention has been now well recognised. Even in the year 1918, the circumstances were such as required a state intervention in this matter and the Government brought a Bill for the controlling of rents. If I am able to satisfy this honourable House that the present circumstances are also so peculiar that a legislation for controlling the rents is necessary, I submit, I will have established a case in support of my measure.

I will first deal with the circumstances which necessitated the passing of a Bill for rent restrictions in the year 1918. At that time there were four circumstances urged by Government which necessitated the passing of a legislation for controlling of rents of premises in this City. The first was that there was an enormous increase of population of the City. The second was that the housing accommodation available in the City was insufficient. The third reason was that the rents had increased

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abnormally and were increasing abnormally. The last ground urged was, the absorption of a large percentage of earnings of the tenants living in Bombay in the house rent. Now, I hope, I shall be able to satisfy this honourable House that all these four circumstances or grounds exist even today and in addition there are several other grounds also which will justify the state intervention and the passing of a legislation of this type.

Taking first the question of population. The population of this City—I will confine my remarks first to the City—is increasing and today, the population, according to the calculations which I have been able to make would be in the neighbourhood of or not less than 14 lakhs. It may be perhaps more, but it will not be less than 14 lakhs. Now this population in the year 1911 was 9,80,000. In the census of 1921, the population was increased to 11,76,000, an increase of about 1,96,000. In the census of 1931, the population was given as 11,61,400. It was something less than the population of 1921, but the circumstances and the conditions under which the census of 1931 was taken were so peculiar that it cannot be said that that was the correct figure and according to the Health Officer of the Bombay Municipality, the population of this City in the year 1931 should be in the neighbourhood of 13 lakhs. I will only, in this connection, refer to what the Health Officer of the Bombay City Municipality has to say in his report for the year 1931. At page 2 of the report of the Health Officer, as contained in the Administration Report of the Municipal Commissioner for the year 1934-35, this is what he says :

“When the census of 1921 was taken, the trade conditions continued to be bad and owing to closure of several mills, firms and other work-places, a number of citizens had left the City for their native places. At the same time, owing to the non-co-operation movement of the National Congress, no proper co-operation was received from the public in the census work. The results then obtained did not, therefore, represent the real state of the population of the City, during normal times and it is obvious that any calculation of vital statistics based on these figures must necessarily be fallacious.”

And then I will only refer, with your permission, Mr. President, to one more portion in the latest Administration Report of the City Health Officer of the Bombay Municipality. This is what he says in the Annual Report of the year 1936-37 :

“I have already stated in my report for 1934, the circumstances under which the population figures obtained during the census of 1931 did not represent the real state of the population of the City which ought to have been during normal times.”

Then he gives all the figures and says that these figures of inhabitants, when added to the actual figure in the report would bring the total to above 13 lakhs and this would be expected under the normal conditions.

Now, if we take the increase of population during the 10 years of the two censuses, we find that there is an average increase of about 2 lakhs. If we, therefore, divide this increase by 10, the number of years, an average annual increase is of about 20,000 people in the City. Therefore, during the last 7 years, the increase in the population would come to

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about 1,40,000. Adding this to the 13 lakhs as calculated or assumed to be the correct figure by the Health Officer of this City, we find that the population of this City would be about, 14,60,000.

Thus, we have to see that while there has been an increase in the population of this City, the question is whether the accommodation available in this City is quite adequate or much more than what was there in the year 1931, when the census was taken. For that purpose, I would first refer to what was the housing condition of this City as stated in the Census Report of the year 1931. The housing conditions of this City at the time of the census in 1931 were very poor. This is what the officer, who took the census, had to say on this point. He says :

" 33 per cent. of the population lives in rooms occupied by more than 5 persons at a time and 1 per cent. in rooms occupied by over 20 persons at a time. Such conditions, (the writer remarks) must be more reminiscent of the blackhole of historical memory than of any modern city pretending to sanitary living conditions. Over 15,000 persons live in rooms occupied by 20 or more persons each. Even if all the persons occupying rooms containing only 5 persons and under were regarded as being free from over-crowding, it would still be true that 30·3 per cent. of the total population of the City are living in conditions of the grossest over-crowding. There are in Bombay City, 2,44,121 occupied tenements. Of these, 1,97,516 or 81 per cent. consist of one-room tenements and are occupied by 74 per cent. of the population of the City. The average number of persons per room in this class of tenements is 4·01. In the opinion of the Superintendent of the Census, the general conclusions to be drawn from these striking figures are as follows :—

- (1) that if an average of more than 2½ persons per room were taken as indicating over-crowding, 86 per cent. of Bombay's population would be considered to be over-crowded and housed so inadequately that the streets have to be used universally to supplement the sleeping accommodation, which the houses themselves cannot provide;
- (2) that 96 per cent. of the individuals composing Bombay's population, do not know what having a room to themselves means, and
- (3) only 4 per cent. of the population live in conditions which ensure reasonable privacy and domestic seclusion."

The condition of the housing accommodation in the year 1931 itself is clear from this report of the Census Commissioner. Now, since then, what is the condition? Has the housing accommodation increased to such an extent as to make it normal and improved so as to make the doctrine or the principle of supply and demand applicable to this case? My submission is that it is not so.

In this connection, I would only refer again to some of the figures of the new buildings and the new tenements that have been built up in this City. From the Administration Report of the Municipality I have taken out the figures and I find that during the seven years, after the census was taken, there has been an addition of about 5,326 houses in this City. There have been some demolitions also. The number of one room tenements that have been newly constructed, comes to about 26,000 and of two rooms—I am giving only approximate figures—about 8,000, because I have not got the actual figures of one year, and of the blocks about 6,000. Then there have been demolitions and the total demolitions of one room tenements come to about 6,500, of two-room tenements 1,000, and of blocks 520, during

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this period. If we take up these figures, we find that there has been an increase in the population of about 20 per cent. whereas there has been an increase in the housing accommodation also to the extent of only 20 per cent. Therefore, the increase in the housing accommodation is just commensurate with or equal to the increase in the population of this city. It is but natural that if there was overcrowding in the year 1920, or 1921 or 1931, there is still over-crowding in the year 1933, and therefore, necessarily, the principle of supply and demand would not be operative so far as these rents and the housing conditions in Bombay City are concerned.

This can be judged also from another point of view, namely, the density of population in the different areas of this city. As regards the density, I have taken out the figures, and I find that there has been some addition to the total area for housing in this city by reason of the reclamation of about 414·68 acres. That is mostly in the A ward. I find that the density of the population in the different wards is as follows :—In the A ward the density in the year 1921 was 104, in 1931 it was 125, and in 1936 it has gone down to 95 by reason of the additional area added to the ward on account of the reclamation. So far as B ward is concerned, the density was 222 in 1921, 223 in 1931 and 339 in 1936. In the C ward the density in 1921 was 333, in 1931 it was 482 and in 1936 it was 459. In the D ward the density in 1921 was 232, in 1931 it was 261, and in 1936 it was 249. The figures for F and G wards are not favourable to me. There, of course, there has been a decrease in the density of the population. These figures also show that the housing accommodation in this city is not quite adequate. Therefore, the reasons which led the Government in the year 1918 to pass the Rent Restriction Act also exist even now.

As regards the third point, namely, The rise in rents, my submission is that there has been a considerable rise in rents paid by the tenants of the middle and the lower classes. Under the old Rent Act, an increase of 15 to 20 per cent. was allowed in the case of the old premises, and in spite of that when the census was taken by the Labour Office of the Bombay Government in the years 1924 and 1931 it was found that there was an abnormal increase in the rents, much more than what was warranted or allowed under the old Rent Act. It was found in the year 1924 by the Labour Office that, so far as the working classes were concerned the increase in rent over that of 1914–15 was 69·3 per cent., and in the case of the middle classes the increase was about 75 per cent. over that of the years 1914–15, that is, the pre-war years. The result of the 1931 census showed that, in the case of the working classes, there was an increase in rent of 8 per cent. in the case of 13 per cent. premises, that there was no change in the rent in the case of 70 per cent. premises, and that there was 12 per cent. reduction in 8 per cent. cases. Of course, as the enquiry was confined only to the family budgets of the working classes and not of the middle classes, the middle class figures are not available for the year 1931.

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But the result of these figures as collected by the Bombay Labour Office shows that 8 per cent. of the population was paying 81 per cent. more rent than in the year 1914-15, that 70 per cent. was paying 69 per cent. more rent and that 13 per cent. was paying 61 per cent. more than in the year 1914-15, so far as the middle and the working classes were concerned. The Bombay Tenants Association also had taken some census, moderate though it was, of the increase in the population and rents of premises in this city, and those figures also showed that there was an increase of rent in the case of premises occupied by the middle and lower classes, in about 13 per cent. cases. Even now we find that landlords have been giving notices to the tenants increasing their rents *en bloc*. I have got with me a number of notices given by different landlords to their tenants increasing the rent even in recent times. Of course, I know that some of these notices have been given because of the contemplated legislation. They thought that perhaps it would be better to increase the rents now, so that if any reduction is made by any legislation, they will be on the same footing on which they were before they increased the rents. In any case, we find that the rents in the city of Bombay have not gone down at all.

The fourth point that was urged in support of the Bill introduced in the year 1918 was the fact that a large percentage of the earnings of the people in the city was absorbed in the item of rent alone. We find that in the city of Bombay the people have to pay a very large percentage of their income for rent. It varies from 10 per cent. to as much as 35 and 40 per cent. The lower and the middle class people find it extremely difficult to get a room or to get a tenement for Rs. 5 or even Rs. 15 and Rs. 20, if the pay of the man is only Rs. 35 or Rs. 40. The earnings of those living in Bombay and elsewhere have gone down considerably by reason of the retrenchment, by reason of the trade depression, by reason of the policy, that has been adopted by employers including Government and private employers, of reducing the wages by reason of the acute unemployment. The total earnings have gone down perhaps by 30 per cent. Assuming that the rents have remained stationary, still by reason of the fact that the total earnings have gone down, the percentage of the rents to the total earnings has automatically increased. Government pay their employees, whenever house rent has to be paid, at the rate of only 10 per cent. or they recover from their employees to whom houses are provided at the rate of 10 per cent. of their pay.

It is but fair that a person occupying premises on rent should not be required to pay more than 10 per cent. of his earnings as rent. But we find that so far as the lower and middle classes are concerned they have to pay about 25 to 35 per cent. of their income as rent, and it becomes a great burden, and the burden has been more acute now and more felt in these days when we find that the total earnings have gone down, and we further find that by reason of unemployment every earning member has to support an unemployed son, or an unemployed brother, or some other unemployed relation. He has to pay more taxation also. He has

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also to spend more on the education of his children. It has therefore, become a great hardship on the poor and middle class tenants in big cities to have premises for residential purposes at a rental which is within their means.

Mr. DADUBHAI P. DESAI : On a point of information. How much of the rent goes towards taxes ?

Mr. S. C. JOSHI : In the city of Bombay the total taxation is 17½ per cent.

Mr. DADUBHAI P. DESAI : Municipal and Provincial ?

Mr. S. C. JOSHI : Municipal only.

The Honourable the PRESIDENT : I am unable even to hear the point of information. If it is to be put, it must be fairly loudly put, so that everybody can hear it.

Mr. S. C. JOSHI : On this ground also I submit that the circumstances are not only the same as those of 1918 but they are worse and justify legislation for restriction of rent.

I submit that the principle of supply and demand would not apply in the case of residential and other premises occupied by the middle and lower classes in Bombay and other cities. In other industrial cities such as Sholapur and Ahmedabad, the conditions are worse than what they were in the year 1918, and legislation restricting rents in those places has become absolutely necessary for the poor and middle class tenants living there.

So far as this principle of supply and demand is concerned, I would only refer to what the Honourable Minister for Health said on the occasion when Mr. Bakhale brought in a Bill for restriction of rents in the year 1934 before the old Council. This is what he stated :

“ Another argument that has been advanced is that we are bringing forward artificial restrictions in the normal operation of the law of supply and demand. The old theory of the capitalist school of economics *laissez faire* has been long exploded; no nation subscribes to it now. Everywhere we see protection of national interests. I would only draw the attention of my honourable friend the representative of the Millowners' Association to the fact that he was the first to ask Government interference with the natural operation of the law of supply and demand with regard to the cotton trade.” (B. L. C. Debates Vol. XXXIX, pages 1308-09).

Sir, I do not say that the Bill that I have brought forward is perfect so far as the particulars are concerned. It may require many modifications. I am conscious of the fact that Government have appointed now a committee and the committee will make inquiries into the matter. It is a matter of great pleasure that Government have directed the committee to start inquiries immediately, at least not later than the 1st of May, and to complete their inquiries and to submit the report before the 1st of July. I, of course, wish that the committee had been appointed much earlier, but now that the committee has been appointed and that the Government have directed it to start work and

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make the recommendations at an early date, I hope these recommendations will be very useful and on the strength of those recommendations which will be made, it may be possible and easier even to make such changes as may be necessary in the Bill which I have brought forward.

The body that will be particularly interested in objecting to the Bill for restrictions of rents would be the Bombay Municipality. The Bombay Municipality, however, has supported such a measure in the year 1934, and, even now the Bombay Municipality has asked one of its committees to make a draft representation to be submitted to Government for the purpose of restriction of rents. Therefore, even that body is not opposed to a Bill which will restrict the rents of premises in the City. Of course, the landlords will always bring forward many arguments in opposing the Bill, but I do not think that any of the arguments which will be brought forward or which have been mentioned in the memorial which the Landlords' Association have submitted to Government, will satisfy any reasonable man. When we find that the incomes or the profits have gone down, there is no reason why the landlords only should get more profits from the Houses which they have built, or which they will build. I think, therefore, that a Bill of this type is very essential. The very facts that quite a large number of tenants have submitted representations and put their signatures on them to this House and that meetings were held at different places in the City of tenants in which resolutions supporting this Bill were passed show definitely that such a measure is absolutely necessary.

With these words, I move the first reading of this Bill.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, the honourable member Mr. Joshi has no doubt shown that he has studied the question in considerable detail. He has given us figures which give us food for great reflection. But I am afraid that the Bill that he has brought in will, if the conditions are, as he says, that rents today are much heavier than what are warranted by justice, be difficult in actual practice. According to his own showing, the population of Bombay has enormously increased. The other fact, he says, is that the tenements are over-crowded. The third fact that he brings in is that the income of the middle-classes and the lower middle-classes has gone down and thus though the rents may not seem to have progressively increased very much, the percentage of actual rent that the middle-classes or the lower middle-classes, or the working classes are called upon to pay has automatically increased. Anyhow the last cause is no fault of the landlord, whoever he may be. Personally, I do not happen to be a landlord and I do not propose to invest any of my savings in property for very good reasons. But I have studied this question from the standpoint of an economist and an independent observer with great sympathy for the middle-classes or the working-classes whom my learned friend represents. If there is over-crowding and want of sufficient accommoda-

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tion, the remedy is building new houses and new chawls and letting them out cheap. Now, who is going to do that? Surely, if you restrict rents under the 4 per cent. rule that my honourable friend has put in, it shall not be the hated capitalist. I hope my honourable friend Mr. Joshi is himself a capitalist also, if not a big one at least a small one. In that way we are all capitalists. Then the burden must be shifted to somebody else. There is the Municipal Corporation of Bombay. Well, I can say to the honourable members here that the heavy burden which is thrown upon us—my honourable friend knows it very well: he is one of the most active members of our corporation—is such that we have been shouldering it under considerable difficulty. The Improvement Trust has been, so to say, foisted upon us. It is a white elephant given to us and the burden has increased by about 21 lakhs. The Government of Bombay agreed to share the burden, but they backed out of their promise and kept only half their word and did not keep the other half, so that the poor taxpayers of Bombay had to be mulcted or squeezed in order to pay a higher general tax. Today he pays a general tax, which is charged on rateable values on property, which is 11 per cent. He was paying two years ago a tax of 12 per cent. which was the pre-war maximum tax fixed by Legislation. My honourable friend has shown us the conditions pre-war and conditions subsequent to the war and I ask him whether it is the Municipal Corporation towards whom he looks for further accommodation in chawls. I have seen the working of the chawls which are thrown upon our hands. The loss of bad debts from non-payment of rent is appalling. Rents as fixed originally on economic basis of the loans that were issued have been considerably reduced by us and still there are bad debts, there are vacancies and lots of troubles, so much so that the chawls which were built for the poorer and the working-classes were not occupied by them and the middle classes and the others began to occupy them, because they are so comfortable that they thought that it was worth their while to occupy them. That is the position.

Then, Sir, I am glad that Government have very kindly undertaken the inquiry and have appointed a committee. I daresay this committee will work hard and bring out the reasons for increasing of rents if any, I hope. (*Laughter*). I do not think they can bring out any other figures than those of my honourable friend. Supposing we try to lower the rents by legislation, by force, what will be the effect? No more private building enterprise, as far as dwellings of the middle and the middle lower classes are concerned, will be forthcoming. What will be the consequence? Less work for the labouring classes employed in the building activities who are earning at present a good living. Therefore, the remedy is not restriction of rent alone. If the rents which seem to the committee to be unjustifiable—I am using the word "unjustifiable" guardedly and I am sure my honourable friend Mr. Joshi will not want the landlord to be asked to receive a rent which does not give him even 1 or 2 per cent. of his original money sunk into that building; if he does so, he is killing the golden goose; he is killing that class of people who are investing

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their money, instead of in Government loans and other securities, in properties—it will be open to the Committee to recommend a reduction of such rents. If my honourable friend Mr. Joshi wants the land-lord to receive rent which does not bring him even 1 or 2 per cent., on his capital, then building activity will stop causing depression and loss not only among the lower middle classes or the middle classes or the working classes, but also among the mercantile classes, and overcrowding will remain just as it is today, because increase of rent does not expand the premises into larger sizes. The only remedy which suggests itself to me, not only as an economist, but as a man of commonsense is that new buildings should be built by the State itself at its own expense and that is the duty of the Government. I quite agree with my honourable friend Mr. Joshi that all theory of supply and demand will not work or cannot be harshly applied in modern times. But supply and demand must continue in the values higher or lower in every country in the world, unless we take the example of Russia and introduce Bolsheviek system here. I do not think my honourable friend Mr. Joshi wants to have it and I think he does not want mass execution every three months of the best intellect of our country, as we hear it is being done in Russia. Then, we have to face the constitution as it stands as a democratic people working a democracy. We have therefore to come to the conclusion that State socialism is required up to a certain extent—Capitalistic socialism, of course. The State must build the Houses. The Municipal Corporation, as it is at present situated, I am afraid, is overburdened with responsibility which it cannot take up or increase. If you force it to do so, it will again work in a vicious circle. Therefore, I would request the Honourable Ministers opposite to consider this problem, not by one committee which they have appointed, namely, the Rent Committee, but ask that Committee or ask some other committee more competent in other directions to find out the ways and means by which housing accommodation could be increased. Really the case that is made out here by my honourable friend is that of want of sufficient accommodation for the middle and the middle lower classes. The case is very poor as far as I can see, with great respect to him, because I have very great respect for him. It is not that the rents are unfair. I know that the rents are not unfair because I have watched the case of municipal chawls. I have also watched the cases of many other chawls owned by my friends. I am sorry that they have invested money in chawls. Tenants constantly move out without paying any rent. When you go to attach their property, there is a lock outside and when you open there is nothing but a broken *watka* and a broken cot. That is the position. Unfortunately, owing to poverty, as well as owing to rascality, among the middle lower classes, these things happen. They run both together. My honourable friend has told us that there is an enormous number of petitions here signed by thousands of people. All right. Who are they? They are the rent payers. Have they got an objection signed by non-rent payers saying that the rents are heavy? We could believe that, but when a person who is paying rent is told: Do you not want your

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rent to be decreased? He will say "yes". If you ask me, I shall say "yes". I should like to pay less if I can do it. I am afraid the position does not, and I hope will not, impress so much my honourable friend here. We are quite cognisant of the fact that there is over-population, there is over-crowding, there is want of accommodation and we are quite prepared to help the Government and agree with any scheme that they put forward for increase of accommodation and with lower rents. There may be a handful of greedy landlords for whom none of us have sympathy. We have all got to meet our landlords every month and nobody likes them. Therefore, it is not the landlords. If there are any greedy landlords, they will soon come down by the law of supply and demand, the Government supply a large number of cheap premises at small rents and even no rents, for those who are unable to pay rents, will soon bring the economic adjustment and I am sure, my honourable friend will agree there and I wish that he had brought a Bill suggesting the real remedy. As far as the principle of this Bill is concerned, I do not know how this House can agree to the principle of decreasing the rent unless and until we hear the report of the Committee which the Government has appointed. It will be giving judgment in advance. I would, therefore, recommend my honourable friend to do something which will put his Bill in abeyance for the time being. Wait for the Committee's report, wait for the Government scheme for remedying the congestion of housing accommodation in this great City of ours and then will be the time to see what next step we shall take.

Sir, I have done.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Mr. President, Sir, my honourable friend, Mr. Joshi, has brought this Bill with the best of intentions, because he is representing that class of people who require some sort of concessions, but I am afraid that this is not the time to bring such a Bill. My objects and reasons for that are that in the year 1918-19, Government enacted a Rent Act, on which I was one of the assessors together with the Municipal Commissioner and at that time I found that the rents of the small tenements were from Rs. 5 to 15, 40 to 120, 100 to 400 and so forth and so on. At that time, it was highly essential to give relief to the poor and the lower middle classes. Now, I understand, the landlords of these chawls not even get the economic rents and I have instances to prove, by concrete instances I can point out, to my honourable friend Mr. Joshi, that the rents paid are not very high. In 1919 some premises carried a rent of Rs. 420. Today it is Rs. 80. Supposing from that he wants a reduction of 25 per cent. that will come to Rs. 60. So the rent of a certain flat in 1919 was Rs. 420 and according to what my friend Mr. Joshi wants, it will be Rs. 60.

Then, Sir, I can also show one locality where I used to pay a rent of Rs. 380 for a shop. Today it is given at Rs. 75 to 80. Then, there are certain chawls belonging to certain friends. When they built or bought those chawls they calculated that they would actually realise rent at about 9 to 12 per cent. of the capital invested. After two years when the

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actual collection of rents was calculated it came to 4 to 5 per cent. The plea brought forward from those landlords was that these are the bad debts, these are the repairs forced upon them by the Municipality or by the Improvement Trust. Then white-washing, colouring and in some respects the water is supplied by meters and some people go away locking their doors with the tap open and they had to pay for water charges and so on. I do not mean to say that I oppose absolutely what my friend Mr. Joshi wants, but I may point out to him that as the Government have appointed a Committee and if they find out that the economic rents per square foot would come to this and if the rents are based on that report, I have not the least objection to support my honourable friend Mr. Joshi.

Sir, we have got the Improvement Trust chawls in Bombay. When I went round them, I found that the economic rent for a room came to about 12 to 14 rupees, but it was rented at Rs. 7-6-0. I said, why? The reply was, people cannot afford to pay Rs. 11 or 12. Therefore, they have reduced rents in some places. If even now rents are still reduced further, then it would not cover even 3 per cent. and if more chawls and more buildings are put up, the grievances of my friend Mr. Joshi will remain, because supposing a man pays Rs. 10 and it is reduced to 5, that will bring more outsiders and a further accommodation will have to be provided for them. Therefore, now the time has come for our popular Ministry to put up chawls at an economic rent so that the lower middle classes, the poor classes, the labouring classes, would come forward and take advantage of it. I mean to say that today the interest charges are only 3 per cent. If on that 3 per cent. and on economic basis, they put up chawls by raising loans, by asking the Government of India to allow them to raise loans and thereby to accommodate these people, that would be the best remedy. But if the rents are reduced, as my honourable friend Mr. Joshi wants, I think capital would be shy to come forward. They would not put forward any more buildings if the rent is to be calculated at 4 per cent. How is the Government or this Act going to calculate the basis of 4 per cent. ? As I have pointed out that the chawls bought with the expectation of 10 to 12 per cent. could not, at the end, get more than 5 per cent. How is that going to be done? But if Government were to come forward and accommodate and build some chawls for these people, I think the whole problem would be easily solved.

Then, Sir, my friend has pointed out about the new reclamation flats and so on. Now I may point out to him that they are getting more than the economic rents and that I can convince him by facts and figures that the rents over Rs. 200 are heavily charged and they get 10, 12 or 15 per cent. and if my friend the Honourable Mr. Morarji Desai would find out the causes of this, he would be convinced of my statements. But that capital comes forward because they get more interest, otherwise they would not come forward. If it is 4 per cent. no one would come forward. They are quite safe in getting 3 per cent. on Government paper. It is

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because they get more that they come forward to build the flats, the municipality gets its revenue and assessment and so forth and so on. Supposing today an Act is enacted on the basis of 4 per cent. then I am sure my friend Mr. Morarji Desai would never get Rs. 90 or 100 for these reclamation plots. Because they get a good return for the capital invested, they get good rates for these lands.

Sir, I would request my honourable friend Mr. Joshi at this juncture not to press for this Bill, but let the report come to us. Then we will find out the economic rents and I have got certain figures by which I can convince my honourable friend Mr. Joshi that the economic rents would come to so much for this room or flat. If that is the attempt, I shall have no objection to support it but at the present juncture, it is better to wait for the report and to see afterwards the recommendations made in the report.

With these words, I would request my honourable friend Mr. Joshi to delay, to adjourn, the consideration of this Bill to the next session for which proposal he will receive support.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar) : Sir, I want to make a few observations on this question. We have this morning seen in the *Times of India* the names of the members of the committee appointed by Government to make enquiries into house rents. The names are, Mr. Mathooradas Tricumjee (Chairman), Mr. S. K. Patil, M.L.A., Mr. D. N. Wandrekar, M.L.A., Mr. Bhogilal D. Lala, M.L.A., Mr. M. M. A. Bhajji, M.L.A., Mr. S. G. Beri, and Mr. G. B. Soparkar, who is also to act as secretary. We find that not a single member of the Upper Chamber is included in the committee. We know that on some Bills when amendments are proposed to be moved and when the Bill is referred to a select committee, the members who have given notice of the amendments are included in the select committee, so that their views may receive proper consideration in the committee that is appointed. Here a very important question is being considered by a committee appointed by the Government, and we do not find any member from this House on the committee; we do not find the name of even the honourable member Mr. Joshi who has taken great pains to prepare and move a Bill on the very question on which the Government is going to make enquiries. That shows the courtesy with which Government wants to treat those persons of the Opposition who bring in Bills and wish to help Government on questions which Government themselves think are important and on which enquiries should be made.

Then we heard Professor Davar's views about capital and that capital not being invested in building activity. He says that if Government go on on this principle of only 4 per cent. income on invested capital, then capital would not come out and nobody would invest in buildings. Professor of Economics as he is, I would like to know from him as to where capital would go in that case. If capital is invested in agricultural lands, there is our friend the Revenue Minister who would at once come down

[Mr. N. D. Deodhekar]

with a graded agricultural tax or something like that. There the investors will not get more. If they invest in shares, there also they will not get more, and the only course is to bury their money underground, as in the old days.

Professor SOHRAB R. DAVAR : Government Paper.

Mr. N. D. DEODHEKAR : There also you will be taxed.

Professor SOHRAB R. DAVAR : We shall see.

Mr. N. D. DEODHEKAR : These are my views. If money is buried underground, there will be no return of any interest on it, and therefore I am sure that capital will come back and accept even the 4 per cent. interest that will be got from investment on buildings. However, as we know that there is a committee appointed by Government to investigate into this matter, I would move :

“That the consideration of this Bill be adjourned to the next session of the Council.”

Question proposed.

Dr. G. S. MAHAJANI (Poona *cum* Satara) : Sir, I suppose that, as it is, my honourable friend Mr. Joshi has yet to carry on much educative propaganda about his side of the case. Therefore, it is much better that this Council, instead of wasting its time at this stage, agrees to postpone the consideration of the Bill to the next session, that is, pending the receipt of the report of the enquiry committee appointed by Government.

Now that my honourable friend Mr. Deodhekar has mentioned the point about the treatment given to the Upper House, I should like to say a word or two, because not long ago I myself mentioned that point in this House, namely, regarding the treatment that has been given by the Government to the members of this House. The Upper Chambers may be unwanted impositions, but the joke, I think, is now being carried too far.

The Honourable the PRESIDENT : There cannot be any discussion on the motion moved by the honourable member Mr. Deodhekar, that the consideration of the Bill be adjourned to the next session. Under Standing Order IV, 4 (1), the mover is entitled to offer any brief explanatory remarks that he wishes. He has done that, and now if any honourable member wishes to oppose the motion, he can address the House.

The Honourable Mr. L. M. PATIL : Sir, I rise to oppose the motion moved by the honourable member Mr. Deodhekar. Government have appointed a committee, which will go thoroughly into the various questions of principle involved in this Bill. It is very difficult to anticipate what the recommendations of the Committee would be. The nature of the action in this matter on the part of the Government will entirely depend upon the results of the thorough inquiries to be made by

[Mr. L. M. Patil]

the committee. I therefore oppose the motion. It would be better if the honourable mover of the Bill withdraws his Bill.

Question put. The House divided. Ayes, 12; Noes, 13.

Division No. 5.

Ayes.

CURRIMBOY EBRARIM, Sir
 DAVAR, Professor SOHRAE R.
 DRODHKEAR, Mr. N. D.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, Khan Sahib A. A.
 MAHAJANI, Dr. G. S.

MAKAN, Khan Sahib MAHOMED IBRAHIM
 PATANKAR, Major Sardar BHIMRAO
 NAGOJIRAO
 SOLANKI, Dr. P. G.
 STONES, Mr. FREDERICK
 VIKAR, Mr. M. B.

Tellers for the Ayes: Mr. B. N. KARANJIA and Dr. P. G. SOLANKI.

Noes.

ATAWANE, Mr. A. M.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARISINGRAO S.
 DESAI, Sardar RAO Behadur CHANDR-
 APPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.

HALDIPUR, Mr. S. R.
 MARWADI, Mr. P. S.
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 POTDAR, Mr. B. B.
 SHAH, M. SHANTILAL H.
 SOMAN, Mr. R. G.

Tellers for the Noes: Mr. RATILAL M. GANDHI and Major Sardar B. N. PATANKAR.

The Honourable the PRESIDENT: The discussion on the first reading will continue.

The Honourable Mr. L. M. PATIL: Sir, I rise to oppose the first reading of the Bill. I do sympathise with the cause for which the Bill is intended. But unless there is sufficient information regarding the various issues involved, it will not be fair to bring in a legislation regulating the rents of the premises in the City of Bombay and in other cities of this Presidency. Legislation of this type is necessary when the circumstances are abnormal. This fact has been also admitted by the honourable the mover of the Bill. It is necessary to gather information to see whether a situation has arisen on account of the increase in population, paucity of housing accommodation or on account of the unemployment or because the landlords have become greedy, which would justify Government taking power to regulate the rents of the premises. Such a situation arose at the time of the great world-war and Bombay Government then passed two Acts, namely, Acts II and VII of 1918. If such circumstances are existing even today, then really it will be the duty of the State to have a legislation controlling the rents. Besides the factors which I have already mentioned and which go to show that the conditions are abnormal, it is essential to make inquiries into questions such as: what proportion does the housing accommodation bear to the total population? What is the average rent paid by the tenants? What is the quality and quantity of the houses available for the average rent paid? In what locality are the

3-30 p.m.

[Mr. L. M. Patil]

houses situated? What is the average income of the tenants? What return is obtained by the landlord from the money invested in building? In every country the houses are supplied either by private or by public agencies. The majority of the houses are built by the private agencies out of business enterprise. It is only to a certain extent, in order to ameliorate the conditions of the labourers, the workers and the people belonging to the lower strata of the society, that the State or the local bodies undertake to build houses. The principle which has been stated in the Statement of Objects and Reasons to this Bill that housing is one of the principal necessities of life and it is the primary concern of the State to see that adequate housing accommodation is within the easy and reasonable reach of every subject, has not been accepted by any Government or State as far as I am aware, except perhaps Russia. No State has ever undertaken to provide houses for all subjects. It is not possible for any State to undertake such a huge responsibility. So, the other alternative is to leave this work to be done by private agencies. Now, the people who invest their moneys in houses naturally expect some return from the moneys which they have invested. So, if we put a restriction on the rents, we must also take into consideration what the effect of such rent control will be on the supply of housing accommodation. I am not looking at the principle of demand and supply from the investors' point of view but from the tenants' point of view, because when there is an increase in population, there must be an increase in housing accommodation. If there is no increase in the housing accommodation and at the same time the population is on the increase, the rents will not be decreased, but, on the other hand, they will be increased.

Then the honourable mover of the Bill has stated, by giving the figures, that there is an increase in the population, but there is not sufficient increase in the housing accommodation. If this is true and if the rents are restricted, I think it will have the effect of penalising this type of investment. One chief factor, in this connection, ought to be taken into consideration and that is whether the landlords are getting exorbitant rents. If they are really getting greater return from the money invested in buildings than from the money which they invest in other types of business, it would be meet and proper for the Government to step in and stop rack renting. It must also be borne in mind that the principle of demand and supply does not always operate freely because few landlords acquire a monopoly over the supply of housing accommodation with the result that they dictate their own terms. But this question should not be tackled merely from the investors' point of view. Factors such as the gradual pauperization of the lower middle class and the workers and the prevailing unemployment amongst such classes have also to be considered.

Sir, to collect the necessary information Government have appointed a committee, the personnel and the terms of which have already been published.

[Mr. L. M. Patil]

With these words, I close my speech and request the honourable mover of the Bill to withdraw his Bill.

Mr. B. N. KARANJIA : Sir, may I know why no member of this House has been appointed on this committee ?

The Honourable Mr. L. M. PATIL : Sir, it is very difficult to say why no member of this honourable House has been appointed on the committee. I can however assure you that there is no intention on the part of the Government to neglect the honourable members of this House.

Mr. S. C. JOSHI : Sir, I am not at all surprised at the attitude of the Government on this question. But I am rather surprised at the reasons advanced by the Honourable Minister for opposing this Bill. He said that Government are quite in sympathy with the principle underlying this measure, provided the material collected by Government shows that there is a need or that the circumstances are so abnormal as to justify the necessity of State intervention for controlling rents. I know that the Congress party itself had included this item as one of the items in their manifesto and I presume that it was so done because the party believed that there was a need for the control of rents by legislation.

Mr. N. D. DEODHEKAR : It was done for securing votes.

Mr. S. C. JOSHI : And if this was the view in the beginning of 1937 or by the end of 1936 and if Government are already in power since July 1937, what was there for Government not to appoint a committee with a view to make inquiry and to collect the material ? I think that item was merely included in the election manifesto for the purpose of securing votes, so that they wanted merely to delay the matter and to see how long they can continue this promise merely by way of lip sympathy without any action being taken thereon. I gave notice of my Bill in the month of October or November and the Bill was actually introduced in this House in the month of January. Since then more than two months have elapsed. Government feel sure that this kind of inquiry will not require more than two months. This is clear from the notification that has been now issued in which they have requested the committee to submit its report before the 1st of July 1938 and they expect the committee to do the work either immediately or not later than the 1st of May. Therefore, they expect the work of this committee to be finished within 2 months or within a month and a quarter. Now, if the Government had appointed a committee either soon after their assumption of office or had done so after I had introduced this Bill here, then it would have been easy and the material would have been available by now. Therefore, no explanation has been given while opposing the Bill as to the delay in the appointment of the committee. I have not said that enquiry is not necessary. Enquiry is necessary to some extent and if the enquiry had been made before, it would have shown the necessity of a legislation of this kind. Therefore, even after the Bill is passed at

[Mr. S. C. Joshi]

its first reading and it is ultimately found that the committee's recommendations show that there is no need for rent legislation or that the need for the legislation would be of a type quite different from the type embodied in this Bill, then certainly it would have been possible to oppose the second reading of this Bill and get it defeated at that time. In fact, I myself would not proceed with this Bill and would drop it, because I do not myself want to press or to put forward a legislation for which there is no justification or for which the data collected by a responsible committee showed that there would be no justification. But to kill a Bill in this way at the first reading or not even to allow the consideration of the Bill to be adjourned for the first reading to the next session is an attitude which I am not able to appreciate. What prompted Government to adopt this course, is a matter which they can themselves appreciate and understand, but certainly this side of the House is not in a position to appreciate the same.

Anyway, I think that I have made out a strong case for the rent restriction legislation and that, as far as the details are concerned, they will be settled after this report is out. I therefore feel that the Bill should be passed in its first reading. I am sorry that it has not been possible for me to accede to the request made by the Honourable the Minister for the withdrawal of the Bill.

With these words, I do request the honourable members of this House to support the motion for the first reading of the Bill.

Question, "That Bill No. I of 1938 (A Bill to regulate the rents of premises in the Bombay Presidency) be read a first time," put, and negatived.

BILL No. II OF 1938 (A BILL TO PROVIDE FOR GRANT OF ANNUAL LEAVE WITH PAY TO CERTAIN CLASSES OF WORKMEN BY THEIR EMPLOYERS).

Mr. S. C. JOSHI: Mr. President, Sir, I beg to move that Bill No. II of 1938 (A Bill to provide for grant of annual leave with pay to certain classes of workmen by their employers)* be read a first time.

Question proposed.

Mr. S. C. JOSHI: Sir, the principle of this Bill is to secure periodical rests to the employees in some of the industries of this Province by their employers. The necessity of the periodical rests has been accepted by many of the civilised Governments. Even the Government of India and the Government of Bombay have accepted this principle. The Government of India recently, on June 14, 1937, have issued a circular in which they have observed as follows:

"The Government of India believe that the general principle of holidays with pay is a sound one and it is securing increasing recognition in labour legislation in other countries. In India, workers in most Government establishments and in some private firms also receive paid holidays."

* Appendix No. 8.

[Mr. S. C. Joshi]

Now, Sir, in so far as the Bombay Government are concerned, they also have expressed their opinion in favour of the holidays and the necessity of granting holidays with pay. The question of the holidays with pay to the industrial worker was taken up for discussion by the International Labour Conference and a convention was passed recommending the provision for holidays with pay for the industrial workers.

Various arguments may be advanced in support of providing holidays with pay. There is a physiological argument in favour of such a measure. The modern production processes and the rationalisation schemes that have been introduced in the various industries have been responsible for increasing the nervous tension on the workers and it is but necessary that there should be an opportunity given to them for recuperation of their health. Then the same modern production processes and rationalisation have also considerably increased the output of the workers and it is but just and fair that the workers should be entitled to a share in the increased output that they would be giving in the form of a few holidays.

Then, Sir, we do find that in some of the industries in India, provision is made for the holidays with pay and it is fair that the scheme or the system should be a uniform system in all the industries in this Presidency. Then, by giving holidays with pay there may be an additional burden on the industries and perhaps from this it might be argued that it would not be possible for the industries in their present state to share the additional responsibility or the burden. But it is a fallacy to regard paid holidays as a burden on the employer because he gets some kind of return which, of course, it is not possible to calculate in the form of money, by giving the concession in the form of holidays, with pay, to his employees. The employer, for example, gets his employees fresh and eager for work when they return from holidays. The employer also reaps an advantage in the form of an increased output, he gets his goods in better condition, there is less sickness and fewer accidents also. Of course, as I said, it is not possible to calculate the actual value in the form of rupees, annas and pies of these advantages, but they are really very great advantages and it is because of these advantages which are availed of by the employers that employers in various countries or Governments in various countries have, of their own accord, been making provision for holidays with pay to their employees.

If holidays with pay are sanctioned, it may be found possible to some extent to employ more men and the question of unemployment would be solved to a little extent. It would be one of the ways to solving the unemployment problem also. All these considerations show that it is necessary and fair and just to give to the employees annual holidays with pay.

Of course, the number of holidays to be given to an employee by his employer annually is a matter of detail. The question as to how to give, whether accumulation should be allowed or not, is also a matter of detail. The question whether the holidays should be allowed to be affixed and prefixed to the other holidays that a worker is entitled to get is also

[Mr. S. C. Joshi]

a matter of detail and although provision has been made in this Bill for all these matters, they may be fixed up, after the general principle of granting holidays with pay is accepted by this House, at a later stage of this Bill. I do feel, however, that there is a strong case for a legislation of the type embodying the principle that is laid down in this Bill and I do hope that this House will pass its first reading.

With these words, Sir, I move the first reading of this Bill.

The Honourable the PRESIDENT: It seems that no honourable member wishes to speak. I will, therefore, call upon the Honourable Minister to reply.

The Honourable Mr. MORARJI R. DESAI: Sir, I thought some members from the Opposition would put the other view before this honourable House and that is why I was waiting to speak on this Bill, but probably they anticipated what I may have to say and saved themselves the trouble of opposing their friend. Well, I do not grudge them that pleasure. Nobody would contest the right of every man to live as comfortably as every other man lives, but when we consider this right, this ideal, as a practical proposition, one has to take many things into consideration. Government would like to give as many facilities to the workers as they can. They would like to improve their lot in every possible way and Government have declared their policy as regards the industrial workers long ago. Government are taking definite steps to put that policy into action and as long as that whole policy is not completely put into execution, it is not possible for Government to undertake new burdens.

As regards industrial workers, it must be admitted that the length to which Government can go is limited to a large extent. In every industry the scope for extending benefits to the workers is not an unlimited one. There are definite limits to the increase in wage costs beyond which it is not possible to inflict any more burden on the industry, because if that is done, it is possible that the industry would die, and then that would not be doing good to the workers, but it would be doing positive harm to them. That is why the limited margin that is available in every industry has to be utilised with great care and caution for the various benefits that can be given to the workmen in those industries. Of course, all these things can be utilised for wage increases, for sickness insurance, for old age pensions, for unemployment benefits and for holidays with pay as well as for cash increases in wages. The textile industry has already accepted the *interim* recommendations of the Enquiry Committee and has given substantial increases in the wages recently, and Government are committed to bringing legislation providing for leave with pay for sickness, as mentioned in the letter which was sent to the Textile Labour Enquiry Committee by this Government. It was also mentioned in the statement

[Mr. Morarji R. Desai]

made by the Honourable the Finance Minister in introducing the budget estimates this year.

It will be agreed on all sides that provision for leave with pay for sickness is much more desirable than provision for holidays with pay, if one has to make a choice between the two. If one can give both, certainly both would be desirable. Nobody can say no to that. But the question is whether one can inflict all that burden on the industry as it is situated at present. Government feel that, unless they see the effects of all the measures that they are going to take at present, in pursuance of their policy, it is not possible to undertake more burdens in this matter, and perhaps, in the enthusiasm for improving the conditions of labour, do more harm to them by spoiling industrial concerns. It is hoped that Government will bring in a Bill at an early date for providing leave with pay for sickness.

Considering all these factors, I would request my honourable friend to withdraw his Bill and not to press it.

Mr. S. C. JOSHI : Sir, I do appreciate the anxiety of Government to bring up measures for the amelioration of the conditions of the workers in such a way as will not impose a burden on the industry which will ultimately prove to be harmful. I have also the same anxiety, and I do feel that in bringing measures for the amelioration of the workers the burden should not be put on the industry in such a way that it will ultimately prove to be disastrous both to the industry and to the workers. I am, however, personally of the opinion that this kind of concession granted to the workers will not prove to be a burden of the type that I have described. Of course, when the benefit of leave with pay for sickness is granted to the workers, it will be limited to a few employees. There will be a considerably large number of workers who will be left out, and I thought that it was necessary to provide relief for all, however small it may be at the beginning. However, in view of the assurance that the Honourable Minister has given, I would like to withdraw the Bill, and ask for leave of the House to do so.

Bill, by leave, withdrawn.

**A BILL TO AMEND THE PRESIDENCY TOWNS INSOLVENCY
ACT III OF 1909 IN ITS APPLICATION TO THE
PROVINCE OF BOMBAY.**

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) :
Sir, I beg leave to introduce a Bill to amend the Presidency Towns Insolvency Act III of 1909 in its application to the Province of Bombay. I may state briefly what the Bill is intended to do.

One of the objects is to provide for what is called a bankruptcy notice in England, and the other is to extend the period of limitation in certain cases. As to the bankruptcy notice, I find from the book entitled

[Mr. Shantilal H. Shah]

"The Law of Insolvency" by Mr. Abuvala, Deputy Official Assignee, High Court, Bombay, that he has expressed an opinion that the time is now ripe for the enactment of an additional act of insolvency in the Indian Insolvency Acts, namely, the failure to comply with an insolvency notice on the lines of the provisions regarding bankruptcy notices in section 1 (I) (g) and section 2 of the English Bankruptcy Act. The provisions in this Bill have been taken from the English Act with suitable modifications. The other section extends the period of limitation in cases in which the insolvency has been annulled and the debt has not been mentioned in the schedule of insolvent. In such cases, today, even though the official assignee has admitted the claim, it is of no avail, because the period between the date of the order of adjudication to the date of the order of annulment is not excluded in computing the period of limitation for a suit, and the suit may get barred. As regards that such a provision exists in the Provincial Insolvency Act and the late Right Honourable Sir D. F. Mulla has stated in his work on Insolvency Law that there is no reason why it should not be introduced into the Presidency Towns Insolvency Act.

The Bill is non-controversial. I understand that Government intend to bring up a measure on the same lines. If they do so, I shall withdraw this Bill. With these words, I ask for leave to introduce the Bill.

Question put, and leave granted.

Mr. SHANTILAL H. SHAH : Sir, I introduce the Bill.

The Honourable the PRESIDENT : The Bill is introduced.

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT : There is no other business on the agenda for today.

As regards the Government Bills, I am told that the situation is like this, that the Honourable the Home Minister is unable to be in this House tomorrow for the Probation of Offenders Bill, and the other Bill, commonly known as the Goonda Bill, is introduced in the Assembly. Government expect that Bill to pass through all its stages by tomorrow or the day after. I understand the Bill is an urgent one. So, these two Bills and any other small Bill, if it is passed by the Assembly, will all be ready by Friday. On Saturday, the other Bills, if they are passed, can be taken up. So, for the present I propose to adjourn the House till Friday next at 2 p.m., unless honourable members desire to adjourn till Saturday.

Dr. G. S. MAHAJANI : Would it be possible, Sir, to adjourn till next Monday, because there is the Provincial Liberal Conference before that date, and if it is convenient to the House and if the House agrees, I should

[Dr. G. S. Mahajani]

prefer an adjournment to Monday next. For the Haripura Congress there was provided convenience by repair of roads etc., and if it is not inconvenient to the House, I am asking for the sake of the Liberal Conference, a postponement by a day or two. If the House is not inconvenienced, it may be granted.

The Honourable the PRESIDENT: Is it for the honourable member's own convenience, or for the convenience of the House ?

Dr. G. S. MAHAJANI: If the House agrees, for the convenience of those wishing to attend the conference.

The Honourable the PRESIDENT: So far as I have been able to get the information, I have already given it to the House. There will be a sufficient number of Bills for Friday and Saturday, and on Monday Government will be ready to proceed, if possible, with the Education Bill. That will keep the House busy. As the days are now getting into the month of May, I think honourable members would like to go away as early as possible. If we begin the work on Friday, it is likely that we will finish it soon. I shall, therefore, adjourn the House till Friday next, 2 p.m.

The House then adjourned till 2 p.m., on Friday, the 29th April 1938.

Friday, the 29th April 1938.

The Council re-assembled at the Council Hall, Bombay, on Friday, the 29th April 1938, the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HALDIPUR, Mr. S. R.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, Khan Saheb A. A.
 MARWADI, Mr. P. S.
 MEHTA, Mrs. HANSA JIVRAJ
 PATANKAR, Major Sardar BHIMRAO NAGOJIRAO
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MAHOMED
 VIRKAR, Mr. M. B.

The following Honourable Minister was also present :

The Honourable Dr. M. D. D. GILDER.

**BILL No. III OF 1938 (AN ACT TO PROVIDE FOR THE
 RELEASE ON PROBATION OF OFFENDERS).**

(Clause by clause reading continued.)

The Honourable the PRESIDENT : This Bill was before this House on the 5th of February 1938, when it had gone up to clause 1 and when the question was put that clause 2 do stand part of the Bill there was a motion for adjournment, and that being carried the proceedings regarding this Bill terminated there. Today we will take up from that point and I will repeat that question as regards clause 2, to which there are no amendments, and after that we will proceed with the Bill further clause by clause. I will now put clause 2 to the House.

Clause 2 (*Definitions*) ordered to stand part of the Bill.

Clause 3 (Courts empowered to pass orders under the Act):

(1) The following courts are hereby empowered to exercise powers under this Act, namely:—

- (a) the High Court,
- (b) a Court of Session,
- (c) a District Magistrate,
- (d) a Sub-Divisional Magistrate,
- (e) a salaried Presidency Magistrate,
- (f) a Magistrate of the first class,
- (g) any other magistrate specially empowered in this behalf.

(2) The powers conferred under sub-section (1) may be exercised by such courts, whether the case comes before them originally or on appeal or in revision.

(3) Where any offender is convicted by a magistrate not empowered to exercise powers under this Act, and such magistrate is of opinion that the powers conferred by section 4 or 5 should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Sub-Divisional Magistrate forwarding the offender to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by section 380 of the Code.

Mr. S. C. JOSHI: Sir, I beg to move:

"In sub-clause (2) of clause 3, for the words 'in revision' substitute the words 'in the case of the High Court, when exercising its powers of revision'."

The clause, when amended, will read thus:

"The powers conferred under sub-section (1) may be exercised by such courts, whether the case comes before them originally or on appeal or in the case of the High Court, when exercising its powers of revision."

Sir, the reason why I have moved this amendment is this.

The Honourable the PRESIDENT: I will put the amendment first.

Question proposed.

Mr. S. C. JOSHI: The reason why I have moved this amendment is simply this. We know that under sections 435, 436 and 437 of the Criminal Procedure Code, almost all the courts which are mentioned in sub-clause (1) have got the powers of revision, but the powers of revision of all these courts, except those of the High Court, are of a limited character, limited in the sense that only some of the irregularities committed may be set right by the courts themselves while exercising the powers of revision; of course, this is for courts other than the High Court. In all other cases, if an irregularity is noticed by any of the courts, namely, a Sessions Court, a District Magistrate, a sub-divisional Magistrate or other courts, in such cases it is not open to those courts to set right that irregularity, but to recommend to the High Court that it is a case which in the opinion of the court exercising revisional powers deserves to have the irregularity set right, and then it will be open to the High Court to pass such orders as it may think proper. If the clause is allowed to stand as it is, the result will be that any magistrate specially empowered in this behalf under clause (g) will be competent, when exercising powers of revision, to make an order under this Act. I think it is not the intention of Government to give such a wide power to a magistrate below the status of a first class magistrate

[Mr. S. C. Joshi]

pecially empowered in this behalf. I think it is necessary to qualify these words, to say that in the case of all these courts except the High Court the power can be exercised only when the case has come before it originally or in appeal. But in the case of the High Court only it will be open to it, when the case comes up before it in revision, to exercise the powers and to pass an order under this section. I may refer in this connection to section 106 of the Criminal Procedure Code. It will be noticed that under section 106 of the Criminal Procedure Code a person who has been convicted of an offence and sentenced by a court may be ordered to give security for keeping the peace on conviction. Now such an order may be passed either by an original court of the status described in sub-section (1) of section 106, or such an order may also be passed by a superior court when the matter comes up before it on appeal. But so far as the making of an order under that section in revision is concerned, it is expressly mentioned in sub-section (3) of that section, that that can be done by the High Court when exercising its powers of revision. I shall read sub-section (3). It says :

"An order under this section may also be made by an appellate court including a court hearing appeals under section 407 or by the High Court when exercising its powers of revision."

The idea is that an ordinary court exercising revisional powers, other than the High Court, should not have the powers of making an order of releasing an accused on probation as contemplated by this Act. Even the present sub-section (2) of section 562, which is being substituted by sub-clause (2) of clause 3 of the Bill, says :

"An order under this section may be made by an appellate court or by the High Court when exercising its powers of revision."

I do not really understand why such a wide power has been given to the courts subordinate to the High Court, of making an order of releasing an accused person on probation, under this Act when the case comes up before them as courts of revision. No such court has got the power of revision under sections 435, 436 and 437. I submit, Sir, that it is necessary to make the position quite clear and not to make the law in any way inconsistent with the general principles of the Criminal Procedure Code. I do feel, Sir, that this amendment is necessary, and I hope it will be accepted by the House. With these words, I move the amendment.

Khan Saheb A. A. KHAN (Central Division): Sir, although I intend supporting the various amendments which my honourable friend is going to move, I feel that I cannot agree with him in the interpretation of law which he has laid down just now. I think that the powers of revision as they stand in sub-clause (2) are wide enough to enable a court, calling for the record of an inferior court for the purpose of examining it to satisfy itself with regard to the propriety, etc. of an order, to go into the question whether a particular offender has been

[Khan Saheb A. A. Khan]

rightly deprived of the benefits of this Act. I do not think that the courts mentioned in section 435 are authorised to pass any final orders except in two cases. Section 435 authorises the High Court, a Sessions Judge, a District Magistrate or a Sub-Divisional Magistrate empowered by the local Government in this behalf to call for and examine the record of any proceedings before any inferior criminal court; and section 436 provides that the High Court or the Sessions Judge may direct the District Magistrate by himself or by any of the magistrates subordinate to him to make, and the District Magistrate may himself make or direct any subordinate magistrate to make further enquiry into any complaint which has been dismissed under section 203 or sub-section (3) of section 204. In other words, where a case has been dismissed, or where the magistrate refuses to frame a charge against an accused person and discharges him, section 436 authorises the High Court, the Sessions Judge or the District Magistrate to order further enquiry. That is the only power of revision that is given to these courts. Then under section 437, the Sessions Judge or the District Magistrate can direct in cases of discharge that the accused person be committed if the offence appears to either of them as one triable exclusively by the Court of Session. With the exception of these two cases, the District Magistrate, the Sessions Judge or the Sub-Divisional Magistrate are not authorised to exercise any powers whatsoever in revision. They cannot pass any final orders. All that they can do is to call for the record, examine it, and if satisfied that there has been any illegality in the proceedings of the lower court, to refer the case for orders to the High Court. The final authority in matters of revision, except in the two cases which I have just mentioned, is the High Court itself. What I am inclined to think is that if these words remained in general terms, it would be quite possible for the District Magistrate or the Sessions Judge to consider a case in which the benefit of this Act could have been given and has not been given by the magistrate who has tried the case, in which case the District Magistrate or the Sessions Judge could refer the case to the High Court, and it would be possible

2-30 p.m. for an offender to get a cheap remedy instead of having to go to the High Court and to apply to it in its revisional jurisdiction. On the other hand, if these words are omitted and the words suggested by my learned friend Mr. Joshi are substituted it will come to this: that the Sessions Judge or the District Magistrate might think that the failure of the lower court in extending the privileges given by this Act to an offender does not amount to a question of law and therefore they have no authority to interfere or to recommend the case to the High Court for its order and to direct the offender or the applicant to go straight to the High Court. Sir, we know what going to the High Court means. It is a very costly procedure and it may probably be beyond the means of many an offender. Whereas, if these words remain as they are, it will be possible to induce the Sessions Judge or the District Magistrate to recommend the case to the High Court for orders under this Act.

[Khan Saheb A. A. Khan]

I therefore oppose the amendment which has been moved by my honourable friend on these grounds.

The Honourable Dr. M. D. D. GILDER : Sir, the case has been so well put by the honourable member Khan Saheb Khan that there is nothing for me to say. It is a point of legal technicality and, as he said, revisional powers are given only to the High Court, Sessions Judges' Courts, District Magistrates and Sub-Divisional Magistrates only specially appointed. If powers are given to them to consider the cases on appeal, I do not see why the power should not be given to them to consider similar cases in revision.

With these words, I oppose the amendment.

Mr. S. C. JOSHI : Sir, I am in complete agreement with what my honourable friend Khan Saheb Khan has stated. No doubt, every court under section 435 has got the power in revision to call for the record of any proceedings of any subordinate court and to examine the proceedings with a view to find out whether there was any irregularity or illegality and, if on examination the court finds that there is some irregularity, or some illegality, or any failure of justice, to see that it can be set right by the court calling for the record under the exercise of its revisional powers. But in other cases it is necessary to forward the case to the High Court with its recommendations for making such order as the High Court may think proper. By keeping the wording of the section as it is in the Bill, the result will be that power will be given to all the courts mentioned in sub-clause (2) of clause 3 of the Bill to pass final orders and to release the accused on probation. I think the intention of Government is that in such cases the order should not be passed by that court, but that it should be passed by the High Court only in exercising its power. It does not mean that the other courts have not the powers of passing an order in revision or exercising the revisional powers in the sense of calling for the record and examining the record for the purpose described in section 435 of the Criminal Procedure Code. If that had not been the intention, then I do submit that the wording of sub-section 2 of section 562 would have been redundant. Even the Central Legislature had definitely and purposely put the words that such powers can be exercised by the appellate court or by the High Court exercising its powers in revision. The whole object of that section is frustrated. Of course, if it be the intention of Government that these powers should be exercised by any of the courts mentioned here and final orders should be passed, it would be quite a different matter. But it must be made clear that it is the intention of the Government and of the Legislature that these powers should be exercised by every court exercising revisional powers and final orders in revision should be passed by such courts as they would be passed under section 435 or 436 of the Criminal Procedure Code.

I feel still that that had not been the intention. However, if the Government is not inclined to accept the amendment, I leave it to the House whether to agree to the amendment or not to agree to the amendment.

The Honourable Dr. M. D. D. GILDER : Sir, I have nothing further to add, except to say that the words put in exactly convey the intention of Government.

Amendment put, and negatived.

Clause 3 ordered to stand part of the Bill.

Clause 4 (*Power of court to release certain convicted offenders after admonition*):

Notwithstanding anything contained in any enactments for the time being in force in any case in which a person is convicted of any offence punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Court by which he is so convicted, may, if it thinks fit having regard—

(a) to the age, character, antecedents or physical or mental condition of the offender, and

(b) to the nature of the offence or any extenuating circumstances under which the offence was committed.

may, for reasons to be recorded in writing instead of sentencing him to any punishment, release him after due admonition.

Mr. S. C. JOSHI : Sir, I beg to move :

"In clause 4, after the words 'convicted of' occurring in line 3, add the following words namely:—

'theft, theft in a building, dishonest misappropriation or cheating or'."

Question proposed.

Mr. S. C. JOSHI : Sir, the clause as amended will read as follows :

"Notwithstanding anything contained in any enactments for the time being in force in any case in which a person is convicted of theft, theft in a building, dishonest misappropriation or of any offence punishable with not more than two years' imprisonment....."

Then in respect of these offences only the Court will have the power, instead of sentencing the accused to two years' imprisonment, to release him after due admonition for reasons to be recorded in writing. Sir, there are two ways of dealing with first offenders. The first is to release the offender on mere admonition, in which case the whole case is disposed of completely and the offender is not required to appear again before the Court to receive punishment. The other case dealt with by section 562 of the Criminal Procedure Code is where the mere passing of the sentence is deferred and the offender is released on probation and, if during the probationary period he proves not to be of good conduct, he is called upon to appear and to receive the sentence. Now, in the case of the offenders who are to be released on admonition the present provisions of sub-section (1A) of section 562 of the Criminal Procedure Code provide as follows:—

"In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating, or any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction.....Then the Court may.....instead of sentencing him to any punishment release him after due admonition."

[Mr. S. C. Joshi]

Now, the object of this Bill is to minimise the rigour of the present provisions of section 562. However, the effect of the language of clause 4 of the Bill would be to give the benefit of admonition only to those offenders who are now guilty of an offence punishable with not more than two years' imprisonment. Of course, there may be improvement in this sense that under sub-section (1A) of section 562 this is limited only to offences punishable under the Indian Penal Code, whereas under the amended section of this Bill it will be extended to any offence, offence under any other law, but while the provision or the benefit of being released on admonition is extended to offenders who have committed offences under any Act, other than the Indian Penal Code, punishable with not more than two years' imprisonment, it takes away the privilege, which an offender has been given by the provisions of the Criminal Procedure Code, who has been guilty of an offence of theft, theft in a building, dishonest misappropriation or cheating. Now these are the offences which are punishable with punishments, in some cases of three years, in some cases of seven years and today under the Criminal Procedure Code as it stands, in the Bombay Presidency, a person who has committed an offence of theft under extenuating circumstances may be entitled to be released on admonition. Similarly, a person who has committed a theft, theft in a building or dishonest misappropriation is entitled to have the benefit of being released on admonition, if the circumstances justify. Now under those very circumstances, under this Act, which is intended to minimise the rigour of section 562 as it stands today in the Criminal Procedure Code, the privilege or the benefit which a person who has committed any of these offences is entitled to get will be lost. I do not understand exactly why that has been done in the Bill. Of course, at the time of the first reading when I referred to this point in my observations, the Honourable the Home Minister said that he would still get the benefit of being released on probation under sub-section (1A). That benefit he was undoubtedly getting even before the additions were made to sub-section (1A) of section 562. The persons or offenders who had committed the four offences, which I have mentioned in my amendment, were entitled, under the provisions of section 562 to two kinds of benefits, of being released on probation and also of being released on admonition. Now one of these privileges is actually taken away. To that extent I say that the provisions of this Bill are retrograde and they ought to be set right. I have, therefore, moved this amendment with a view to retain the privilege or the benefit which an offender is entitled to get under the provisions of section 562 of the Criminal Procedure Code. By clause 14 of this Bill, section 562 of the Criminal Procedure Code will not be operative and therefore it is necessary to make a clear provision in the Bill itself of the extent to which the benefits are now given by the Criminal Procedure Code.

With these words, Sir, I move my amendment.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I oppose the amendment moved by my honourable friend

[Mr. B. N. Karanjia]

Mr. Joshi. His point is that even if a man commits dishonest misappropriation, he should be let off by an admonition. When the Bill was introduced, I pointed out to the Honourable Minister, Mr. Munshi, that we merchants oppose this Bill tooth and nail. Criminal misappropriation and dishonest misappropriation have been done every day and if these people are allowed to be let off by mere admonition, I think, that would, instead of minimising the offences, aggravate them on the contrary, in the sense that these people who get a small salary would be tempted to commit dishonest misappropriation every day and they would think that for the first offence they would be let off by mere admonition. I am pained to see my honourable friend Mr. Munshi going too far to give relief to this kind of offenders. We have got very bitter experience about these things and some *mehtas* run away with money and it is very difficult even to trace them and in the second instance, if they are allowed this relief they would—

Mr. N. D. DEODHEKAR : Has any *mehta* cheated you ?

Mr. B. N. KARANJIA : Many merchants are cheated and I can give you an instance which occurred only six months ago when a *mehta* went away with Rs. 5,000 of one member of my association. He is not to be found yet. According to the present Bill, he will say : Let me appear before a Court and I will be let off with mere admonition or on probation. I mean by that, that would encourage these clerks to commit such offences.

Sir, I oppose this amendment.

Khan Saheb A. A. KHAN (Central Division) : Sir, I rise to support the amendment and I must say that the apprehensions that the honourable member Mr. Karanjia has expressed with regard to *mehtas* committing breach of trust to the extent of thousands of rupees being let off are not justifiable. If we look to amendment No. 4, which the honourable member Mr. Joshi has given notice of, he will find that he intends to move the inclusion of the word "trivial" between the words "the" and "nature" and when that is done, I do not think any magistrate in his senses—of course, the other contingency need not be contemplated—I repeat that any magistrate in his senses would give the benefit of this Act and let off a *mehta* who runs away with a few thousand rupees with admonition. What has happened is this. Section 562 as it stands gives the privilege of release after admonition in cases of offences of theft, theft in a building, dishonest misappropriation and cheating.

Mr. B. N. KARANJIA : Do they fall under that category ?

Khan Saheb A. A. KHAN : Section 562 (1A) gives the privilege of release after admonition in cases of theft, theft in a building, dishonest misappropriation and cheating. That is the law as it stands. We want to provide that offences punishable under other enactments with not more than two years' imprisonment should also be dealt with in the same manner in which offences punishable under the Indian Penal Code are dealt with under section 562 (1A). We are taking a step ahead

[Khan Saheb A. A. Khan]

We are giving with one hand and we ought not to take away with the other what already exists. As has been pointed out, clause 14 will render section 562 inoperative altogether and in those circumstances the very important privilege which has been given to first offenders under sub-section (1A) will be taken away if these words are not included. What may happen in a possible case is this. A man may collect money on behalf of his employer. Owing to certain circumstances he may not be able to pay the money into the employer's fund in time. He may fall ill or certain other circumstances may come in and he will not be able to do it. Technically he will be guilty of the offence of misappropriation, even though he turns up two days later or a week later and pays the amount. In such a case, instead of sentencing the man, instead of dealing with him under the provisions of clause 5 and calling upon him to furnish sureties and enter into a bond, the best course would be to release him after an admonition, so that he may not commit such aberrations in future. I therefore think that the honourable member Mr. Karanjia need not have any apprehensions with regard to the safety of his money. If his *mehla* misappropriates such a large amount, he will be properly dealt with. He will not only be sentenced, but he will not be dealt with under the provisions of clause 5 of this Bill and given the benefit to which he would otherwise have been entitled if clause 5 stands. I therefore support the amendment proposed and trust that Government will see their way to accept it.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : Sir, the amendment seeks to add to clause 4, four offences, namely, theft, theft in a building, dishonest misappropriation and cheating. Out of these four, theft is punishable with three years, theft in a building with seven years, dishonest misappropriation with two years, and cheating with one year; that is to say, the last two, namely, dishonest misappropriation and cheating are already covered by the clause as it stands, and so far as these two offences are concerned, I think the amendment is redundant. That, Sir, leaves us with theft and theft in a building. These are offences punishable with three years and seven years' imprisonment. Now, as an honourable member put it, a *mehla* may find himself in difficulty and may misappropriate money, but the person who enters a house and commits theft has got greater preparation of mind and greater criminal intent than the man who having money in his hand happens to misuse it. It is for that reason, Sir, that the punishments in the Penal Code are so graded that the greater the criminality involved, the greater the punishment. That is why theft and theft in a building are liable to a higher punishment than the other two offences. The point of view from which these things are to be looked at is not the privilege of the offender, for a crime is an offence against society. We do not look at punishment as retributive or as a punishment on the lines of "an eye for an eye and a tooth for a tooth". The object of all these clauses is reformative, namely, to give the person concerned a chance to become a proper citizen of the Province. The point therefore to be

[Mr. Shantilal H. Shah]

considered is whether mere admonition in a case like this would have a better effect upon the person, or whether it would be necessary that he should enter into a bond and say "I shall be of good behaviour". It does make all the difference as to which method is adopted. It would have little effect if the magistrate tells him "Well, go away and be a good boy for the future". It would have altogether a different, a more permanent, effect if the person himself were to say "Sir, I undertake that I shall not do this again". It is this mental difference that we ought to take into account; it is the mental effect on the person whom we want to make a better citizen that has to be considered. From that point of view, if the persons who have committed an offence for which they are liable for a higher punishment are allowed to go with mere admonition, it might frustrate the object which the Government have in view. If the punishment is higher, the crime must be more serious, and in that case we must have from the person something more than his being given an admonition. The idea is not that of the privilege of an offender. The idea is to make them better citizens, and I would submit, Sir, that offences involving more than two years' imprisonment require something more than mere admonition. That is why I oppose the amendment.

Mr. S. C. JOSHI : Sir, the apprehensions entertained by my honourable friend Mr. Karanjia of course are not well founded, because even under the present law as it stands he gets the benefit.

Mr. B. N. KARANJIA : No, he is punished.

Mr. S. C. JOSHI : That is not so. My honourable friend is wrong. It seems he has not read the section, and that is why I may remind him again of the provisions of section 562 (1A) which says :

"In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating, or any other offence under the Indian Penal Code punishable with not more than two years' imprisonment, and no previous conviction is proved against him, the Court before whom he is convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of the offence or to any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition."

Those are the qualifications for which only the man can be released on an admonition. It is not in each and every case of an offender who has committed any of these offences that the magistrate can release him. The magistrate or the court will have to consider so many circumstances, and having due regard to all those circumstances if the court or the magistrate is of the opinion that it is a fit case in which the offender should be released on probation and that the object of the punishment will be better served by releasing him with an admonition than by sentencing him, then the magistrate should adopt that course, and now this is a privilege which an accused person is entitled to have exercised in his favour by a court under those circumstances.

My honourable friend Mr. Shah may be of the opinion that the object of the punishment is reformatory and that he should be a better citizen. Now I do find that instead of sentencing a man and sending him to

[Mr. S. C. Joshi]

gaol, it will be much better to get him improved, if he is released either on probation, or in some cases if he is released after an admonition. Now that is the object. That object is better served and the man becomes a better citizen by being released after an admonition, or in some other cases of a somewhat serious nature if he is released on probation instead of sending him to gaol. This is not a thing that was originally inserted in the Criminal Procedure Code. It was an addition that was made after experience. This sub-section (1A) was added to section 562, and particularly these offences were added, at a later date. These offences were not originally there. They were added on the recommendation of a special committee that went into this question. I am not aware of any other committee having been appointed which has gone into this question and made a recommendation that the amendment in the Criminal Procedure Code by including these as offences in which a person may be released on admonition have proved to be of not only no value but have proved to have an adverse effect. In the absence of any such thing, it must be presumed that the section as then amended has worked very satisfactorily. Unless therefore there is any special reason why the Bombay Government desire to go back upon what has been done by the Central Legislature in this matter by giving a particular benefit to the offenders, I do not think that it would be advisable to take away one important privilege given by the Central Legislature to the citizens of Bombay. It is true that under special circumstances a man may commit an act which may technically amount to an offence. A child may commit an offence of theft, and it may be of an age for which it cannot come under the Children Act. Such a child, committing the offence of theft under very extenuating circumstances, deserves to be released after an admonition, and that child will turn out to be a better citizen if it is released after an admonition than on being merely released on probation or on being sent to gaol. I do feel that no satisfactory explanation has been given by Government as to why the departure has been made and the important privilege of the citizens has been taken away by this Act. I therefore hope that this amendment will be carried by the House.

3 p.m.

The Honourable Dr. M. D. D. GILDER: Sir, at the time of the first reading of this Bill my honourable colleague the Home Minister pointed out what Government intended to do under this clause. He pointed out as follows:

"The change that is made in clause 4 is that, in order to attract its applicability, the offender needs to be a first offender. It is similar to section 562 of the Criminal Procedure Code. Then, he must be a person who is convicted of an offence punishable with not more than two years' imprisonment."

The man who commits a theft, theft in a building, must have made a certain amount of preparation for it. From the doctor's point of view, in most cases the man has got a diseased mind and the diseased mind had better be treated as soon as the disease starts and the best way of treating it is to make the man say that he will not do it again and

[Dr. M. D. D. Gilder]

to ask him to enter into a bond. These cases will come under clause 5 of the Bill and the offender will have to give the bond with or without surety as the trying judge may direct.

Then my honourable friend referred to juveniles. Their cases will of course come under another Act and not under this. To release a juvenile on admonition is to my mind a funny way of dealing with him. Sir, we all know what are the results of admonitions which are so very often given. In such cases, the better procedure will be to ask the person who has the charge of the child to execute a bond. That, I think, is the better way to deal with juveniles.

Under these circumstances, I oppose the amendment moved by the honourable member Mr. Joshi.

Question put. The House divided: Ayes, 9; Noes, 14.

Division No. 6.

Ayes

CURRIMBHOY EBRAHIM, Sir
DAYAR, Professor SOHRAB R.
DEODHREKAR, Mr. N. D.
JOSHI, Mr. S. C.
KHAN, Khan Sahab A. A.

SOLANKI, Dr. P. G.
STONES, Mr. FREDERICK
TAMBE, Mr. MAHOMED AMIN WAZEER
MOHOMAD
VIRKAR, Mr. M. B.

Tellers for the Ayes: Messrs. N. D. DEODHREKAR and RATILAL M. GANDHI.

Noes

BHOSLE, Mr. M. G.
DESAL, Mr. DADUBHAI P.
DESAL, Mr. NARSINGRAO S.
DESAL, Sardar Rao Bahadur CHAN-
DRAFFA B.
GANDHI, Mr. RATILAL M.
GUIDO, Mr. T. M.
HALDIPUR, Mr. S. R.

KARANJIA, Mr. B. N.
MARWADI, Mr. P. S.
MEHTA, Mrs. HANSA JIVRAJ
POTDAR, Mr. B. B.
PRADHAN, Mr. R. G.
SHAH, Mr. SHANTILAL H.
SOMAN, Mr. R. G.

Tellers for the Noes: Mr. T. M. GUIDO and Khan Sahab A. A. KHAN.

Mr. S. C. JOSHI: Sir, I beg to move:

"In clause 4, after the word 'imprisonment', add the words 'or fine or both'."

Question proposed.

Mr. S. C. JOSHI: Now the clause as amended will read as follows:

"Notwithstanding anything contained in any enactments for the time being in force in any case in which a person is convicted of any offence punishable with not more than two years "imprisonment or fine or both and no previous convictions....." etc.

This is merely to give effect to a decision of the Bombay High Court in a case, namely, that of *Emperor versus Mancharshaw* reported in 37 Bombay Law Reporter, page 105. Therein, the question was whether the benefit of the provision of sub-section (1) of section 562 should be given to an offender who has committed an offence punishable with fine and the High Court held that this can be done because the section was not intended to deal with cases of fine and it was merely intended to make the provisions of that section clear.

With these words, I move the amendment.

The Honourable Dr. M. D. D. GILDER : Sir, when drafting this Bill, we thought that the situation was clear enough. If a crime is punishable with imprisonment, then fine is a smaller punishment, and automatically comes under this section. Therefore, we think that the amendment is redundant. If, however, my honourable friend wants to make things more clear and wishes to press his amendment, I shall not oppose it.

Mr. S. C. JOSHI : Sir, I have nothing to add.

Amendment put, and agreed to.

Mr. S. C. JOSHI : Sir, I do not want to move amendment No. 4.

The Honourable the PRESIDENT : Then I will put the clause, as amended, to the House.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5 (*Power of Court to release certain convicted offenders on probation of good conduct*) :

"(1) Notwithstanding anything contained in any enactment for the time being in force, when

(a) any male person is convicted of an offence not punishable with death or transportation for life, or

(b) any woman is convicted of an offence of any kind,

if it appears to the Court by which the offender is convicted, that regard being had to the age, character, antecedents or physical or mental condition of the offender, or to the circumstances in which the offence was committed, it is expedient that the offender should be released on probation of good conduct, the Court may, for reasons to be recorded in writing, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not being less than one year and not exceeding three years) as the Court may direct, and in the meantime to keep the peace and be of good behaviour :

Provided that the Court shall not pass a probation order under this section unless it is satisfied that the offender or one of his sureties (if any) has a fixed place of abode or regular occupation and is likely to continue to have such place of abode or such occupation, within the local limits of its jurisdiction during the period of the bond.

(2) Where the offender appears to the Court to be under the age of twenty-five years, the Court may for reasons to be recorded in writing make an order, hereinafter called a supervision order, directing that the bond to be entered into under sub-section (1) shall contain a condition that the offender shall be under the supervision of a probation officer named in the order during the period specified therein and such other conditions as in the opinion of the Court may be necessary for securing such supervision :

Provided that the period so specified shall not extend beyond the date on which, in the opinion of the Court, the offender shall attain the age of twenty-six years.

(3) While making a supervision order the Court may also direct that the bond shall contain such additional conditions with respect to residence, abstention from intoxicants and any other matters which the Court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or a commission of other offences by the offender.

(4) A Court making a supervision order shall furnish the offender with a written statement of the conditions which he is required to observe."

Mr. S. C. JOSHI : Sir, I am not moving 5 and 6, but I move No. 7 which is :

"In clause 5 (1), delete the following words appearing in bracket :—

'not being less than one year and'

[Mr. S. C. Joshi]

Clause 5, sub-clause (1) reads as follows :

“that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period (not being less than one year and not exceeding three years).”

That is the present clause, but when amended it will read as :

“when called upon during such period (not exceeding three years) as the Court may direct”.

Even there is no limit under section 562, as it stands, as to the minimum and this minimum is inserted as a new thing. No reason has been given as to why the minimum is necessary. In some cases a bond may be sufficient. That is for the magistrate to decide and it is not necessary to lay down a particular minimum and I think it is not advisable to lay down the minimum. That should be left entirely to the discretion of the court or the magistrate by whom the order for releasing on probation is passed.

Prof. SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, I support this amendment. The whole idea behind this legislation is to give a chance to a first offender and that too after the magistrate carefully considers all the circumstances of the case and after obtaining bond and surety and taking various other precautions as to good conduct. Thereafter, if there is any lapse, naturally the case comes up before the magistrate, and up to now the magistrates have been kept quite free and their discretion is left unfettered. This clause, unfortunately, seeks to introduce rather a dangerous precedent where the magistrate is told that he shall not inflict a punishment of not less than one year.

An Honourable MEMBER: There is no punishment.

Prof. SOHRAB R. DAVAR: If it is not a punishment then, I think, I was in the wrong. The bond is all right.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat): Sir, a committee was appointed in England called the Departmental Committee on the Social Services in Courts of Summary Jurisdiction and one of the points of reference to the Committee was about the duration of probation. In the report the Committee says :

“The great majority of probation orders are made for from one to two years.”

Further on, it is said :

“An order for less than a year, on the other hand, hardly gives the probation officer a fair chance of establishing a permanent improvement. If an offender requires supervision, he will ordinarily need at least a year.”

That is why this clause has been introduced. I, therefore, oppose the amendment.

Mr. S. C. JOSHI: I have nothing to say, Sir.

Amendment put, and negatived.

Clause 5 ordered to stand part of the Bill.

Clause 6 (*Power of Court to require released offender to pay damages and costs and recovery of such damages and costs*):

"(1) A Court directing the release of an offender under section 4 or section 5 may order the offender to pay such compensation for loss or injury caused to any person by the offence and such costs of the proceedings as the Court thinks reasonable :

Provided that the amount of such compensation shall in no case exceed the amount of fine which the Court could have imposed in respect of the offence.

(2) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under sub-section (1).

(3) The amount ordered to be paid under this section may be recovered as a fine in accordance with the provisions of sections 386 and 387 of the Code."

Mr. S. C. JOSHI : Sir, I beg to move :

"In clause 6 (1), delete the words 'section 4 or'."

Question proposed.

The Honourable the PRESIDENT : Before directing the release of an offender under section 5, the court may order the offender to pay such compensation, that is, the power of giving compensation should be confined in cases dealt with under clause 5.

Mr. S. C. JOSHI : The reason of my amendment is that when an offender is released after due admonition there is an end to the whole case and there is no question of his being called upon to pay either compensation or cost to the complainant or to Government or to any other person concerned who has been injured by reason of his offence. Even under the present section 562 as it stands, there is no provision for payment of compensation in such cases. I do not really understand why the Government have added this particular clause and made it more difficult for the people and particularly the poor people to get the benefit of being released on admonition and of being ordered to pay both compensation and cost to either the Government or to any other person who has suffered the injury or loss by the offence. It is quite unnecessary and it is more difficult, more harsh on the offender than the present provisions of the Criminal Procedure Code. I think it is quite unreasonable and unjust to make the provisions of the present law more stringent in this way and put hardships on the poorer class of people who might, on account of the peculiar circumstances in which they might be placed, have committed petty offences, under extenuating circumstances in which the magistrate or the court by whom or by which he was tried, it was thought desirable to release him on admonition. So, at least in the case of those people who have been released after due admonition, there should be no question of his being called upon to pay either compensation or cost of the prosecution. I think this will be a great hardship on the poorer class of people. With these words I move the amendment.

Prof. SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District) : Sir, with respect to this amendment, as far as I can see, the fear my honourable friend Mr. Joshi has in his mind is that the court

[Prof. Sohrab R. Davar]

will always exercise its discretion in every case. What the clause says is "A court directing the release of an offender under section 4 or section 5 may order the offender....." That is to say, if the magistrate thinks that it is a case where some property has been stolen or something has been done which has caused injury to the complainant and the position of the offender is such that he can refund the money or pay compensation, then, in that case, there is no reason why after admonishing him and giving him the concession of not punishing him, the compensation should not be exacted. Again, in such a case, where the parent or the accused himself is quite capable of paying money, why should even the cost be thrown on the public coffers and not be exacted from him? So that will be only a case of discretion which will be vested entirely in the magistrate or the court trying the case. I am afraid the fears of my honourable friend are not so very serious and I hope he will withdraw his amendment.

Khan Saheb A. A. KHAN (Central Division): Sir, I rise to support the amendment. I shall be always supporting the amendments. I propose to support amendment No. 8 when it comes to be moved later. At this stage, however, I wish to point out that I do not understand why Government have adopted this shop-keeper's attitude of providing that compensation and cost should be paid by an offender as the condition precedent to this admonition. It is all very well to say that magistrates should have discretion in this matter; where they think that the case will be a fit one, they might insist upon cost and compensation to be paid. I think that where we consider the offence to be of such a trivial nature, or the circumstances of the offender to be of such a character as not to justify action under clause 4, there seems to be hardly any necessity for making provision for the payment of compensation and costs. Besides, the question of costs will lead to all sorts of inconvenience. It would be entirely discretionary for the magistrate to award any costs he likes, and it will be difficult to assess the costs properly. In those circumstances, I think that the power that is sought to be given under clause 6 is a power which is not desirable and it is too late in the day now to provide for the payment of compensation and costs in criminal cases. I therefore support the amendment which has been moved by my honourable friend, and I hope that the Government will accept this amendment, just as they accepted the other amendment of my honourable friend, because this amendment stands practically on the same footing as the other one, and no reasonable man ought to complain of the omission of the words "section 4" from this clause.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat): Sir, the effect of the proposed amendment will be that in the case of offences which are covered by clause 4, which empowers a court to release certain offenders after an admonition, no compensation could be taken from the person punished. Even as it is, there are cases in which a magistrate can fine a person and direct that out of the fine a certain amount be paid as compensation to the party who has been injured

[Mr. Shantilal H. Shah]

thereby. It is not, as attempted to be made out, a case of the Government trying to be a shopkeeper. It is really the desire to make good the loss to the person who has suffered and to restore the *status quo*, that is to say, the position before the offence was committed. The committee to which I referred has in this connection reported :

" Monetary sanction may be effective with some who would otherwise be disposed to treat the matter lightly."

The other consideration which the committee has put forward, and which is to my mind the more important one is this. They say :

" Apart from this consideration, there can be no better way of restoring the offender's self-respect than to let him feel that by his own effort he has repaired the injury done to another."

As I stated before, the object of this legislation is to reform a person and make him a better citizen. This recalls to my mind the case of a young boy who was with me in the lock-up. He had hired a bicycle. He rode the cycle for more than the period for which he had hired it and having got no money to pay the extra charges to the owner of the cycle he did not dare to go back with the cycle to the owner. He therefore threw the cycle into the gutter and went home. The boy's mother knew nothing about it. The owner of the cycle lodged a complaint, the boy was arrested and was in the lock-up with me. That is how I came to know of the case. I do not know what happened to him, because I did not stay there long. But the mother used to come to the lock-up to see the boy. I found that the mother was willing that the hire which the owner of the cycle was entitled to should be paid, that the damage done to the cycle should be repaired, and she was willing to make good the sum required for the purpose. And if an order could have been passed under this section that he should pay a rupee or two and be free, he could have gone back into the world and said " Well, I am free from the offence ; I have done no wrong to any one " and he could have walked with his head up. The point here is not to make good the loss, but to enable the criminal to stand up before the world and say " I have done nothing wrong. Even if I have done some wrong, I have made up for it, and I am entitled to be in society on an equal footing with the rest." The object is not merely to make money, to put money from the pockets of one into the pockets of another. The whole object of the legislation is reformatory, and the proposed amendment seems to have entirely lost sight of the intention of the legislation, namely, to reform the individual.

Mr. S. C. JOSHI: Sir, I have tried to appreciate the arguments advanced by my honourable friend Mr. Shah. He particularly referred to the proceedings of a committee. But may I remind him of the fact that under the English law the question of payment of costs and compensation is not a new one, and it has been there even before the amendment was made of the Criminal Procedure Code in the year 1898 ? When that section was added to the Criminal Procedure Code, there was already in England an Act by which provision was made in the case

[Mr. S. C. Joshi]

of first offenders and the costs were provided for and compensation was also provided for. But notwithstanding the provisions in the English law, the Indian Legislature thought it unwise to incorporate a provision for the payment of compensation and costs in the Criminal Procedure Code. It has been the principle recognised in India and adhered to that, as far as possible, criminal courts should not be used as courts for awarding compensation to the aggrieved parties, and in respect of costs incurred by Government or by any private individual in the prosecution of offenders, the criminal courts should not direct the offenders to pay compensation except, as I suggested on the last occasion, under the provisions of section 545. If the offender is punished with a fine, then the court may order, out of the fine when recovered, a certain sum to be paid to the complainant by way of compensation. Beyond that there is no such thing. So far as the first offenders are concerned, who are to be released after an admonition and who are to be released on probation, there is no such principle. It is only this Bombay Government that is now thinking of introducing this new principle. I think it is directly opposed to the broad general principle of the Criminal Procedure Code, and I am very serious in my amendment. I say that not only that a departure should not be made at all in the case of those offenders who are released after an admonition, but that on no account whatsoever should a criminal court be authorised to order either compensation or costs. The criminal courts are not intended for that purpose. I know that Government will not accept it, because Government will be losing a certain amount which they might recover due to the order that may be made by the magistrates or by the courts. But I am very serious in my amendment, and I hope that the House will give its support to it.

The Honourable Dr. M. D. D. GILDER : Sir, I appreciate the seriousness of the honourable mover of the amendment, but I am very much puzzled as to whether he is standing for the rights of the rich or the rights of the poor, whether he is standing by the Indian Penal Code as the final authority on law and maintaining that it should not be changed or whether he is welcoming any change in the law in the way of humane reform. One time he says one thing and another time he stands for another. Under the Indian Penal Code, the Magistrate or trying officer has got the power to fine the accused and out of that fine he can direct that a certain amount be given to the prosecution for costs; he can direct that a certain amount should be given as compensation to the injured person. But he cannot do it at the present moment unless he actually fines the man. Under this Bill, he lets the man off with a warning or he puts him on probation, and he is given the power, which he already possesses, of asking the accused to pay the costs and/or compensation. Even taking the narrow view that the Criminal Procedure Code does not give the power in case of admonition to order compensation or costs, I do not think that we are going beyond the present Criminal Procedure Code in any way at all for the simple reason that cases that were formerly fined may now be let off with admonition.

[Dr. M. D. D. Gilder]

Then he is talking about the poor man being made to pay compensation. Does he, therefore, believe that it is the poor men only who are brought to a court of law and who are prosecuted, and that criminals are always poor men? Much more often in these cases it is the rich man who can afford to pay and who would much more willingly pay compensation and be let off with a warning or on probation. I do not see, therefore, that his arguments carry weight, and I oppose the amendment that has been moved by my honourable friend.

Amendment put, and negatived.

Mr. S. C. JOSHI : Sir, I beg to move :

In clause 6 (1), delete the words " and such costs of the proceedings as the court thinks reasonable."

Question proposed.

Mr. S. C. JOSHI : The effect of the amendment would be that the court may have power merely to order the payment of compensation for the loss or injury caused to any person by the offence, and there would be no authority for the court to pay the costs of the proceedings. The arguments which I advanced in support of my previous amendment equally apply to this. I do not want to take up the time of the House.

The Honourable Dr. M. D. D. GILDER : Sir, the arguments advanced in opposing the previous amendment apply to the present one. So I also do not wish to take further time of the House.

Amendment put, and negatived.

Mr. S. C. JOSHI : Sir, I beg to move the following amendment :

In the proviso to clause 6 (1)—

(a) after the words "such compensation" add the words "and costs"; and

(b) at the end, add the words "or Rs. 50 whichever is less."

Question proposed.

Mr. S. C. JOSHI : Sir, the reason why I am moving this amendment is this. The proviso says that the compensation that may be awarded by a court should be equal to the amount of the fine which the court could have imposed in respect of the offence. Now the authority of a court to impose fine is regulated both by the Indian Penal Code or by the law defining offences and also by the Criminal Procedure Code. For some of the offences the maximum amount of fine is laid down, but for most of the offences no maximum has been fixed. Therefore, in such cases, subject to the provisions of the Criminal Procedure Code, a criminal court or a magistrate would be competent to impose any amount of fine which is within its powers. The powers of a criminal court to impose fine are described in section 32. So far as the court of a First Class Magistrate, of a Presidency Magistrate or of a District Magistrate is concerned, the amount of fine may be Rs. 1,000. So far as the Second Class Magistrates are concerned, they can inflict a fine of Rs. 200, and Third Class Magistrates a fine of Rs. 50, and there is no limit whatsoever to the amount of fine that may be imposed by an Assistant Sessions Judge, an Additional Sessions Judge, a Sessions Judge, or the High Court.

[Mr. S. C. Joshi]

In their case the amount of fine may be any. That being the case, the result will be that the total amount of compensation that may be awarded by a court—by the High Court, by a Sessions Judge's Court, by an Additional Sessions Judge's Court, or an Assistant Sessions Judge's Court—may be any amount whatsoever. So also, in the case of the First Class Magistrate, or the District Magistrate, or the Presidency Magistrate, the amount of compensation which the Court would be entitled to award would be a thousand rupees. In the case of the Second Class Magistrate, it would be of two thousand rupees. Third Class Magistrates are not empowered under this section, and therefore in their case the question would not arise. Therefore, in such cases the amount of compensation that may be awarded may be too excessive and that will be in addition to the amount of costs that he will be ordered to pay. In this way, it will be too heavy a punishment. Further, it will be better for a person who has suffered by reason of a wrong committed by another to drag the offender in a criminal court and to get compensation than to proceed under the civil law, where you are required to pay court fees and other charges. I think that it is not the intention of Government that the criminal courts should be utilised or availed of for the purpose of getting any amount of compensation.

Now, the section as it stands would lead to these results, namely, a man who has committed an offence and who, in the opinion of the court, is entitled to get the benefit of the provisions of section 4 or 5, and to be released on probation or after admonition, may be ordered to pay a huge amount of compensation to the injured man and the costs also, particularly in cases where he is tried before a District Magistrate, or a First Class Magistrate, or a Presidency Magistrate, or a Sessions Court or the High Court. I think it will be too much to say that it should be an amount which is equal to the amount of the fine not exceeding which the Court would have imposed in respect of the offence. The Court would impose any amount of fine subject to the restrictions which I have just now read and which are laid down in section 32 of the Criminal Procedure Code. I think it is absolutely necessary that there should be a limit to the amount of compensation and costs which should be awarded by the Criminal Court and that amount should be fixed up. I think the maximum amount should be Rs. 50 and that is why I have moved this amendment. Sir, I have moved two amendments. One is that "after the words 'such compensation' add the words and costs". Now what will happen is this. As the clause stands, the amount of compensation will be as equal to the fine plus the costs, the total of which may exceed the amount which the Magistrate is authorised to inflict as fine. Therefore, I think that in respect of both the amounts that would be included, they should not be in excess of the amount which the Magistrate is empowered to inflict as and by way of fine. The last words that I have added by my amendment are that it should not be in excess of Rs. 50 whichever is less out of two.

Mr. SHANTILAL H. SHAH : Sir, the honourable member Mr. Joshi has proceeded on the footing that the high judicial officers who administer justice in the courts will not act with any sense of responsibility. He has suggested that the District Magistrate, the Sessions Judge, or the Judge of the High Court will be so unjudicial as to inflict a fine of Rs. 25,000 when the offence is a very small one. I do not see any reason to think that the judicial officers of this Province will make any such mistake. Even if they do, the sentence will always be open to appeal. Therefore, I do not see any force in the argument that the Magistrate is likely to inflict a sentence which may be disproportionate to the crime.

The other point is this. In the case of misappropriation by a gumasta, the case put by Mr. Karanjia, as the law stands at present, the Magistrate can sentence the accused person to a fine of say Rs. 5,000 and he may order that out of this fine Rs. 4,000 be given to the person who has been wronged. This Bill instead of calling that amount "fine" calls it "compensation", but in both the cases the amount has to be paid; call it what you will, compensation or fine. Under the Bill fine is replaced by compensation. I do not therefore see any force in the arguments advanced by my honourable friend Mr. Joshi.

Prof. SOHRAB R. DAVAR : Sir, the honourable member Mr. Shah has no doubt put the case very nicely, but the point which evidently has worried my honourable friend Mr. Joshi is that in the proviso the Government itself has limited the compensation to the amount of fine that a particular class of Magistrate or Judge could inflict within his own jurisdiction and taking advantage of that restriction which this clause itself imposes, he has put in this amendment so far as I can read his mind. As he is a representative of the labour classes, he has taken the precaution to impose the limit of the lowest fine which the lowest type of Magistrate can inflict, namely, Rs. 50, as the maximum.

The Honourable the PRESIDENT : I was myself thinking as to whether it would be more convenient for the House to consider these two amendments (a) and (b) separately instead of lumping them together. The difficulty which I am experiencing while I am listening to the arguments is that while there is one set of arguments with regard to (a), there is another set of arguments with regard to (b), namely, that in any event, the amount of compensation and costs shall not exceed Rs. 50, and that these two sets of arguments are likely to be confused. If the honourable member Mr. Joshi so desires, he can have it into two parts, the first amendment being that the compensation shall be limited to the amount of the fine and no costs should be separately awarded, and the second being that even if compensation and costs are to be awarded the total sum should not exceed Rs. 50. I think these two points of view may be discussed separately and it will be for the clarity of the discussion if we were to confine our attention first to (a), namely, compensation and costs. I find from the discussion that it will serve the purpose better if we consider (a) first and then take up (b) separately.

Mr. S. C. JOSHI : Yes, Sir. That would be much better.

Prof. SOHRAB R. DAVAR : Well, Sir, I take the first part of the amendment dealing with compensation and costs. Now, proviso to clause 6 says :

“ Provided that the amount of such compensation shall in no case exceed the amount of fine which the Court could have imposed in respect of the offence.”

I will take first the case of compensation. Supposing a man has injured the complainant to the extent of more than Rs. 50, say, to the extent of Rs. 500 or Rs. 5,000, then in that case my honourable friend Mr. Joshi wants that the compensation should be limited to Rs. 50. The question then is, is it compensation at all ? The idea of giving compensation is to restore the injured party as far as possible to the position in which he happened to be before the injury was caused. That is how we define compensation in civil law. When a Magistrate orders this compensation, he is practically acting to a certain extent in civil capacity, because he gives the actual damages. If it had been left to me, I would not at all restrict or fetter the discretion of the magistrate to whichever class he belongs. But Government has restricted his discretion and that is how this principle has been introduced and that is the unfortunate part of it. I would, therefore, like to know from the Honourable Minister opposite whether they wish to keep the proviso as it is and whether they want the principle to be maintained, namely, that there shall be some limit to compensation. Whatever the injury may be, there shall be some limit to compensation. Then in that case it may also apply to the other judiciary, as my friend Mr. Joshi says, where their power to levy fine is unlimited. You cannot have it both ways. If you introduce a principle you must follow it to its logical deduction. If you do not introduce it, leave it free to the magistrates concerned and let them decide such compensation as they possibly can, unless you have some legal opinion in which there is a technical objection to leaving in the hand of the magistrate or the lower judiciary this unrestricted power of awarding a large compensation. Perhaps that may be the idea, but if it is not so, why not drop this proviso altogether ?

The Honourable the PRESIDENT : This seems to be a battle of wits amongst the lawyer members of the House and those who are not. I would like to explain the legal arguments which have been advanced by the lawyer members of the House in a simple way to the non-lawyer members of the House so that they can follow properly the discussion. The honourable member's point is that as to the compensation there is a limit in the section itself that it shall not, in any case, exceed the amount of fine which could be imposed by the magistrate or by the court in that case. That is the limit and he says that there should be another limit which he thinks should be imposed, namely, of Rs. 50. There are two limits, one is by the Bill, he says, up to the fine which could be imposed by the court ; the second is that it shall in no case exceed Rs. 50. The honourable member says : Why have that limit at all in the section ! If you object to Rs. 50, omit also the limit of fine.

[The President]

The court may give such compensation as it likes and he has asked for an explanation from the lawyer members of the House. Why limit the power of the court to the fine? The answer may be given, that the Criminal Procedure Code restricts the power of the Court as regards the amount of fine which it may impose but there is no provision for payment of any compensation. The Criminal Procedure Code does not provide for payment of any compensation in addition to fine. This section, for the first time, I think, introduces the principle of compensation. Therefore, the question is, what should be the amount of compensation? The honourable member Mr. Joshi says, either omit it or limit it. I am trying to explain, so that the other members who are not lawyers may be able to follow the discussion.

Mr. B. N. KARANJIA : Sir, I understood what you have said, but in certain defamation cases, the magistrate sometimes fines only one rupee and thus it is though the man who charges, the man who is defamed, may have spent thousands of rupees, in such cases the magistrates have got no power to award costs. Recently there were some cases in which the Chief Presidency Magistrate fined only one rupee, while the man has actually spent Rs. 5,000. In such cases, what would be the compensation? In such cases, the magistrates have said that they have no power to award any cost and therefore they are helpless.

The Honourable the PRESIDENT : You want to know about defamation and the extent of the costs and compensation?

Mr. B. N. KARANJIA : In defamation cases they award no costs; if you define that, that would be a thing where the man who defames would be properly dealt with.

Mr. S. C. JOSHI : So far as the first part of my amendment is concerned, I think it is necessary to lay down the limit on the powers of the court and those limits should be not only in respect of the amount of compensation but should also be in respect of the costs. Ordinarily the powers of the court to inflict fine on an accused person are laid down in the Criminal Procedure Code read with the provisions of the substantive law as contained in the Indian Penal Code or in any other law defining offences. Now, Sir, there is no

4-40 p.m. provision in the Code authorising the award of compensation and costs except provisions of section 545. Whatever the Honourable the Minister for Health might say, I feel that this is a complete departure that the Bombay Government want to make in the principles of the administration of criminal justice and they must also be clear in their mind as to whether it is necessary to lay down the maximum powers of the Court in the matter of payment of compensation and costs either each one of them separately or both together. I think, so far as the first part is concerned it is laid down that the maximum powers of the criminal courts to award compensation would be to the maximum of the amount of fine which the court is competent to inflict. So far as the cost is concerned, there is no limit.

[Mr. S. C. Joshi]

The result will be that a court will be free to order any amount of costs. That, I think, will be an unreasonable thing. It is, in the first place, difficult to ascertain how costs are to be taxed, whether they are to be taxed on the lines of the taxation rules of the High Court or of any other court. There would be no rules of cost in the criminal courts, therefore, new rules will have to be framed also. I think, therefore, it will be but proper to have the maximum amount which a court would be competent to award, both by way of compensation and cost, put together, which may be equal to the amount of the fine which the court is competent to inflict. I, therefore, think that it is absolutely necessary—(*An Honourable Member*: Any amount of cost?)—to say that compensation and cost, both together, shall in no case exceed the amount of fine. That will be one part of my amendment.

The second part of my amendment is that even in cases of fine, there should be a maximum as regards both. I have suggested a maximum of Rs. 50 and I think that would be a fair one. Both these amendments, Sir, as you have very rightly suggested, should be put in two separate parts and that would be more convenient. I am much obliged to you—I myself had thought that it would be better to move separately—and I do suggest that they may be put for voting separately.

The Honourable Dr. M. D. D. GILDER: Sir, the honourable member first showed his feelings for the poor, then for the rich, then for the Criminal Procedure Code. Now, my honourable friend is showing his feelings that the judiciary will not discharge their functions well and will impose extraordinary penalties. I am sure the judiciary is sufficiently trustworthy and sufficiently reasonable. (*An Honourable Member*: Question.) The amount of fine with costs will not be so exorbitant as to make a very large amount. However, as section 545 of the Code is there which gives the judiciary the power to defray, out of the fine, expenses properly incurred in the prosecution and to pay compensation for loss or injury from the whole or part of the fine, if my honourable friend is very keen on his amendment and if he would be good enough—

Mr. S. C. JOSHI: I am not keen at all, if the Honourable the Minister is not.

The Honourable Dr. M. D. D. GILDER: If my honourable friend wants to press his amendment, I would suggest that in the first part of his amendment he introduces the words "compensation and costs so awarded", and we shall not oppose it, but we are opposing the second part of the amendment, because, as my honourable friend Prof. Davar has said, we cannot set two limits.

Mr. S. C. JOSHI: Sir, I am quite willing to accept the change. That will be making the position quite clear. It is an improvement in the amendment and I am much obliged to the Honourable the Minister for the same. The amendment will now read like this—

The Honourable the PRESIDENT: I think it would be better for the honourable member to ask leave of this House to allow him to alter his amendment.

Mr. S. C. JOSHI: Sir, I beg the permission of the House to allow me to move my amendment in this way:

"In the proviso to clause 6 (1), for the words 'such compensation', substitute the words 'compensation and costs so awarded'."

Question put, and leave granted.

The Honourable the PRESIDENT: Now I will put the amendment.

Amendment put, and agreed to.

The Honourable the PRESIDENT: I will now put the second part of the amendment which runs as follows:

"In the proviso to clause 6 (1), at the end, add the following words:—
'or Rs. 50 whichever is less'."

Amendment put, and negatived.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 (*Appeal and powers of court in appeal and revision*).

(1) Notwithstanding anything contained in the Code except in cases in which the offender has pleaded guilty, or where the order is passed by the High Court, an appeal shall lie from an order of conviction in every case in which an order is passed under section 4 or 5 to the Court to which appeals ordinarily lie under the Code.

(2) The Appellate Court or the High Court in the exercise of its powers of revision may pass any such order as it could have passed under the Code, or may set aside an order under section 4 or 5 and in lieu thereof pass sentence on such offender according to law:

Provided that the Appellate Court or the High Court in revision shall not inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

Mr. S. C. JOSHI: Sir, I beg to move, that for clause 7 the following be substituted. I beg for permission to move my amendment in a slightly amended form. In sub-clause (1) of clause 7, I had purposely omitted the words "4 or", because I had given an amendment originally for the deletion of clause 4.

The Honourable the PRESIDENT: I should prefer that it be moved as it stands, and then permission may be taken to change it.

Mr. S. C. JOSHI: Sir, I beg to move:

For clause 7, substitute the following, namely:

"7. (1) Notwithstanding anything contained in the Code any person against whom an order has been passed under section 5 may appeal against such order to the court to which appeal ordinarily lies under the Code:

Provided that he shall have no right of appeal in cases in which—

(a) the order is passed by the High Court, or,

(b) the order is passed on the plea of guilty except as to the legality of the order.

(2) The Appellate Court or the High Court in the exercise of its powers of revision may pass any such order as it could have passed under the Code.

(3) When an order has been made under section 4 or section 5 in respect of any offender, the High Court may, on appeal when there is a right of appeal to such Court, or when exercising its powers of revision, set aside such order, and in lieu thereof pass sentence on the offender according to law:

Provided that the High Court shall not under this sub-section inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted."

Question proposed.

Mr. S. C. JOSHI : Sir, I beg to ask for permission to add " 4 or " after the word " under " in sub-clause (1) of clause 7 of my amendment.

Amendment, by leave, amended accordingly.

Mr. S. C. JOSHI : Sir, I will be very brief in explaining the reasons for which I have moved this amendment. What I feel is this. I am not against the spirit or the principle underlying the clause as it is worded in the Bill. But I have got two doubts in my mind and I think that they require to be cleared up. One is, is it intended by Government to give the right of appeal even to the Government, when an order has been passed under clause 4 or 5 of this Bill ? This requires to be made clear, because when a person has been acquitted, the right to appeal would be to the Government under section 417. As the clause stands, it is open to the Government also to appeal against an order passed under clause 4 or 5. It says that, notwithstanding anything contained in the Code except in cases in which the offender has pleaded guilty, or where the order is passed by the High Court, except in these two cases, an appeal shall lie from an order of conviction passed under section 4 or 5 to the Court to which appeals ordinarily lie under the Code. It means that even the Government would be entitled to prefer an appeal against an order passed under clause 4 or 5. Of course, if that be the intention of the Government, then it would be quite a different matter. But I think that there should be no right of appeal to the Government in cases where the magistrate or the court has exercised the discretion in favour of an accused person under clause 4 or 5. I think that right is not given to Government even under the provisions of section 562 as it stands and as I am able to understand it. That would be giving a new right to Government. It would be a departure, and if it is not the intention of Government to give the right to Government, to prefer an appeal against an order passed by an appellate court or by an original court, it should be made clear, and that is made clear in my amendment.

The second thing that I want is this. It says that in cases in which the offender has pleaded guilty, there will be no appeal at all, even if the order itself is manifestly illegal or beyond the authority of the court. I think in cases where that is the case, it may be necessary to give the right of appeal. That is however a very minor point.

The other point that I want to be made clear is with reference to sub-clause (2) of clause 7 of the Bill. Under that sub-clause the appellate court can set aside an order under clause 4 or 5, and in lieu thereof pass sentence on such offender according to law. That means, where a person who has been convicted, and against whom an order has been passed under clause 4 or 5, the appellate court will have the power, even on his appeal, to set aside that order, and in lieu thereof pass sentence according to law. That would be practically giving power to an appellate court to enhance sentence. It may be said that the power of enhancing sentence may be given to an appellate court. But ordinarily, a criminal court as a court of appeal does not possess the power to enhance the sentence. That can be done by the High Court, and that too as a court of revision, and not as a court of appeal. A court,

[Mr. S. C. Joshi]

as a court of appeal, can either confirm the conviction and also the sentence, or reduce the sentence, or pass any other sentence, but not so as to enhance it. It can also alter the conviction, and alter the sentence, but not so as to enhance it. In no case the court of appeal has been given the power of enhancing a sentence, not even the High Court. In this case such power is given to every criminal appellate court, not only the High Court as a court of appeal but every court as a court of appeal. Thus in ordinary cases, even a First Class Magistrate who has got the power under the provisions of section 407 to hear appeals of the District Magistrate, will be competent to set aside an order passed, when an appeal is preferred by the accused himself, who has been convicted and against whom an order has been passed under clause 4 or 5. It is neither fair nor just that in exercise of the powers under sub-clause (2) of clause 7 the appellate court should set aside that order and pass sentence on him, according to law.

The Honourable the PRESIDENT: That is, without giving the usual notice ?

Mr. S. C. JOSHI: Yes. Anybody can appeal. The accused can appeal and Government can appeal. It is not said that Government has the right of appeal. If Government want the right of appeal, it should be made clear; and it should be then stated that on an appeal by Government against an order passed under clause 4 or 5 of the Bill, the appellate court may set aside that order and pass sentence according to law. That is necessary to be made clear, and that is what I have done in my amendment. Of course, I do not recognise the right of Government to appeal, and I think Government does not want the right of appealing against an order passed by a magistrate or a subordinate court against the orders passed under clause 4 or 5; and from that point of view I have worded the amendment.

If Government is anxious to have the right of appeal, then the question will also arise, to what court Government should appeal. Ordinarily, any appeal to be made by Government through the Government Pleader lies to the High Court only and not to any other court: it may be against an order of acquittal passed by the original court or by a court of appeal—the appeal lies to the High Court direct and to no other court. Is it the intention of Government to have the right of appeal to be made to any court to which ordinarily an appeal lies? That matter is also not clear. To my mind, the whole of the clause as worded is rather vague, and will lead to difficulties. I for one feel that the Government should not have the right of preferring an appeal against an order passed under this clause. If the person against whom an order is passed is aggrieved, he should be given the right of appeal. But when he appeals, the appellate court should not possess the power of setting aside that order and then passing sentence according to law. This is what is intended to be done by the amendment which I have moved. With these words, I move the amendment.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat): Sir, the amended clause raises two questions. The first is whether it is intended that the Government should have the right to appeal. From the clause as drafted it is clear that the Government do intend to reserve to themselves the right to appeal. I do not see why Government should not appeal in cases where they are of the opinion that an admonition or an order of probation passed in a particular case by the magistrate was not proper. It is not an infallible rule that the magistrates do not make a mistake. Further, the orders under this clause are only on conviction, that is to say, the orders under clause 4 or 5 can be made only after a conviction has been recorded. Therefore, the question of appeal by the Government in case of acquittal would not normally arise. If there is an acquittal, Government would be appealing not under this section but under the other sections which provide for the right of appeal to the Government. We are therefore left with the case of a conviction. Take the case which the Honourable Minister in charge of the Home and Legal Departments cited, the case of the patil who molested a girl. The accused was acquitted in two Courts, but Government thought that the acquittal was not justified and they filed an appeal to the High Court against the acquittal. Such cases may occur again and the Government may find it necessary that Government should appeal even though the order is really of admonition in a case in which they think that the Magistrate has dealt with the offender leniently. I think that the intention of the Government is clear and the right of appeal should be with the Government.

The second point, which was rather strongly argued, was that this amounts to an enhancement of the sentence and that should not be done. But, Sir, an appeal will come only after a conviction has been recorded and the Magistrate has either administered an admonition or passed a probation order. Therefore, it will not be a case in which the sentence will be enhanced. The Magistrate, in the first instance having recorded a conviction makes a probation order and therefore it would be open to the Magistrate to say that instead of the probation order he will sentence the accused to a particular term of imprisonment with or without fine. In that case the Court to which an appeal would lie may cancel the probation order and may sentence the offender to some fine or imprisonment. A safeguard has, however, been provided in the proviso, namely, that the amount of such compensation shall not exceed the amount of fine which the Court could have imposed. And this clearly shows that even if the matter has gone to the High Court the punishment which will be inflicted will not exceed the punishment which would have been inflicted by the Magistrate who first tried the offender. This is not a case in which the punishment will be enhanced, but only a case in which Government may feel that the probation order has been wrongly made and a sentence ought to be inflicted. In such a case the sentence would be restricted to such sentence as the original court could have inflicted.

Mr. S. C. JOSHI : Sir, I am not yet clear as to what Mr. Shah tried to explain. Now this sub-clause (2) does give the power to the appellate court to set aside an order under section 4 in any appeal filed. But the question is whether this power is to be exercised in an appeal preferred by Government, or even by the accused himself. Is it the intention of Government that in an appeal filed by the accused himself against an order passed under section 4 or 5 the appellate court should set aside that order of release on admonition and pass sentence? That will be the result of the provisions of this section. I think that will be giving the power to the court to enhance the sentence. If it is the intention of Government that this should be done by the appellate court, it would be a different matter. Otherwise this will be somewhat inconsistent with the provisions of the Criminal Procedure Code. I do feel that so far as sub-section (1) also is concerned, an appeal shall lie from an order of conviction in every case in which an order is passed under section 4. That is as good as passing an order of acquittal. It is not an order of conviction and still the right of appeal is given to Government. There should be no right of appeal to Government in such cases and if an appeal is to be preferred it should be filed by Government direct to the High Court and not to the ordinary courts. About these two points therefore I am still unconvinced. I feel that the section ought to be made clear so as to leave no doubts to the courts in the interpretation of this section hereafter. Whatever is the intention of the Government it should be made clear in the section itself.

For these reasons, I submit that the House should adopt my amendment.

The Honourable Dr. M. D. D. GILDER : Sir, my honourable friend, an eminent lawyer as he is, will excuse me if I say that he has shown some confusion of thought between conviction and sentence. If you look at section 4, there the provision is that the section will apply to a case in which a person is convicted of any offence punishable with more than 2 years' imprisonment. The conviction is there; even if a man is let off with an admonition, he is convicted. Conviction is entirely different from sentence. The sentence may be either an admonition or the sentence may be suspended by keeping the man on probation. It would be remitted or suspended, and could be enforced afterwards if an occasion arises. So, the two things are entirely different. Sub-clause (1) says that an appeal shall lie on an order of conviction. The appeal is therefore against a conviction. My honourable friend will understand the implication of that as he is a lawyer. It is an appeal against a conviction and anybody who has the right of appeal on conviction will file the appeal.

Mr. S. C. JOSHI : Government also ?

The Honourable Dr. M. D. D. GILDER : And when the order of conviction is to be revised, the revision court has the power to revise the sentence and may enter into the points as to whether the sentence is proper or not if the conviction is confirmed. It may set

[Dr. M. D. D. Gilder]

aside the bond or the admonition, or it may confirm that order. That is perfectly clear in the section itself.

The proviso says :

“ Provided that the Appellate Court or the High Court in revision shall not inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.”

Khan Saheb A. A. KHAN : On a point of information, Sir. Does this section contemplate an appeal by Government also ?

The Honourable Dr. M. D. D. GILDER : The appeal is against a conviction.

Khan Saheb A. A. KHAN : Sir, I am afraid that if the Government does not make this point clear, it may serve to create all sorts of difficulties later on and cases will have to go to the High Court and we will have to get a decision. Therefore, why not make the position clear that Government has the power to make an appeal ?

The Honourable the PRESIDENT : I do not like to intervene in this technical subject where legal minds are at work, but it appears to me that a little confusion has arisen. One set of arguments is that the section as it stands in the Bill may give a right of appeal against a conviction to both the parties, that is, to the accused as well as to the Government. The other argument seems to be that no more powers are taken away ; the section is quite clear and it gives the right of appeal on conviction only. That is to say, the person who has got the right of appeal on conviction can appeal, the argument being that if the Government has got no power to appeal against a conviction, then the Government will not appeal, because the Government can only appeal in cases of acquittal. I understood the Honourable Minister to say that Government has got the right of appeal under section 417 of the Criminal Procedure Code, that is, in cases of acquittal, and that Government has no more right under the section. But supposing the Government has somewhere the right to appeal even in cases of conviction, then it is argued that no more right is given to appeal than what exists at present. I think that is what the Honourable Minister means.

The Honourable Dr. M. D. D. GILDER : Exactly, Sir. This is quite clear.

Mr. S. C. JOSHI : Sir, will you please give me an opportunity to explain the point ?

The Honourable the PRESIDENT : Yes, certainly. This is a very technical subject and when lawyers are applying their minds to it, I do not wish to stop any honourable member.

Mr. S. C. JOSHI : Sir, may I invite the attention of the Honourable Minister to the opening words of sub-section (1) of section 7 ? They are “ Notwithstanding anything contained in the Code. . . . ” Therefore, the Criminal Procedure Code will not apply. Thus the questions as to who

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can appeal and to what court an appeal lies, are matters really to be dealt with in this Act only, and the Act ought to make it clear as to the person by whom, or at whose instance, an appeal will lie, as also the Act ought to make clear as to the court to which the appeal lies and also as to the powers of the court in disposing of that appeal. Now, the last two points have been made clear by the Act, namely, as to the court to which an appeal is to lie as also the powers of the appellate court in the disposal of such appeal. It is also said that the right of appeal against the order is given. But to whom? That is not made clear. No doubt, I know that under the provisions of section 408 of the Criminal Procedure Code, it is the right of the person who has been convicted to prefer an appeal and of nobody else. But this provision of the Criminal Procedure Code is not to apply because this section itself begins with the words "Notwithstanding anything contained in the Code...." Therefore, whatever may be the provisions in the Criminal Procedure Code, there will be an appeal at the instance of anybody, not necessarily of the person who has been convicted, not necessarily at the instance of Government, but at the instance even of a stranger the appellate court can be moved. As for example, the court may be moved in revision by any person, not necessarily the person who has been aggrieved by that order. Anybody can make an application in revision to the High Court or any other court and that application—

The Honourable the PRESIDENT: But not in the case of an appeal. The words are "an appeal shall lie".

Mr. S. C. JOSHI: Quite so. The Criminal Procedure Code states definitely the person who shall prefer an appeal wherever there is a right of appeal given. Therefore, it is necessary in this Act also to make that point clear. I am not saying that Government should not have a right of appeal, or has not got the right of appeal, but why not make the position clear? Why should not the Honourable Minister or anybody on behalf of Government make that point quite clear and say that we do want to have the right of appeal and this section gives that right of appeal? What is the use of merely leaving the matters ambiguous and not even trying to explain to this side of the House that this section implies a right of appeal to Government? Why are they sitting on the fence? Why should they not come forward openly and say that by this clause, the right of appeal is or is not given to Government? We would like to know it. This is, Sir, a point on which we would like the Honourable Minister or anybody on behalf of Government to make the position clear.

Mr. N. D. DEODHEKAR: Sir, may I suggest that a cup of tea will clear the brains?

The Honourable the PRESIDENT: I was myself going to suggest that we should adjourn now for tea for half an hour and re-assemble at 5-10.

(The House re-assembled after tea at 5-10 p.m.)

The Honourable Dr. M. D. D. GILDER: Sir, I thought the clause made the position of the Government quite clear. The sentence reads "an appeal shall lie from an order of conviction in every case in which an order is passed under section 4 or 5 to the Court to which appeals ordinarily lie under the Code". An appeal against the conviction must be made by the convict himself when he is convicted. If a man is convicted, there can be no appeal by the Government and the Government do not intend to take that power. I think the difficulty arises from the first words "notwithstanding anything contained in the Code". That is meant to give a power of appeal to the accused in cases in which the probation order is passed, because at present the right of appeal lies in cases where the sentence of imprisonment is of a certain duration or fines of a certain magnitude are imposed and as the probation and admonition would be considered less, it may be argued that the right of appeal does not arise. We make it clear that notwithstanding anything contained in the Penal Code the right of appeal is given. That is the force of the words "notwithstanding anything contained in the Code".

The Honourable the PRESIDENT: I do not know whether the honourable member has followed. I think I have understood it.

The Honourable Dr. M. D. D. GILDER: If I have not been able to make it clear, I shall be obliged if you will do so, Sir.

The Honourable the PRESIDENT: As this is a legal matter, I shall try to explain whatever I have understood with reference to the Criminal Procedure Code. What the Honourable Minister has said is that in the section, as it is, the words used are "notwithstanding anything contained in the Code", there will be a right of appeal. That is all. There the section stops. "Notwithstanding anything contained in the Code" refers to cases where there is no right of appeal. Thus sections 411, 412, 413 and 414 are the sections which bar a right of appeal to an accused person. For instance, section 411 allows an appeal to "any person convicted on trial held by a Presidency Magistrate, if the Magistrate has sentenced him to imprisonment exceeding six months." Section 412 bars an appeal in certain cases when accused pleads guilty, while section 413 bars appeals in petty cases. Section 414 provides that no appeal shall lie from certain summary convictions. So, what the Honourable Minister desires to say is that in spite of these provisions of the Criminal Procedure Code, an added right is given to the person convicted, the provisions of the Criminal Procedure Code are not wiped off, but only the bar against appeal in certain cases as aforesaid is removed. It is an added right to the convicted person and it is not giving a right where it does not exist. That is, if the Government has no right, it does not give a right, but if the accused has got a right in some cases and in some cases not, then in that case, it is a right given to the accused. I may put it this way, that if a right exists in favour of any convicted person to appeal but only in certain cases, then notwithstanding the Criminal Procedure Code the right of appeal is extended; but if there is no

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right to appeal, then it is not intended to create a new right in favour of the Government. That is what the Honourable Minister wishes to say in support of his argument.

The Honourable Dr. M. D. D. GILDER: Yes, Sir.

The Honourable the PRESIDENT: Does anybody want to say anything on the Criminal Procedure Code? (After a pause.) Then, I will put the amendment to the House.

Amendment put, and negatived.

Clause 7 ordered to stand part of the Bill.

Clause 8 (*Provision in case of offender failing to observe condition of release*) ordered to stand part of the Bill.

Clause 9 (*Provisions as to bonds*) ordered to stand part of the Bill.

Clause 10 (*Appointment of probation officers*) ordered to stand part of the Bill.

Clause 11 (*Duties of probation officers*) ordered to stand part of the Bill.

Clause 12 (*Variation of conditions of probation on application by probation officer*):

Mr. S. C. JOSHI: I do not propose to move my amendment. I had, through oversight, omitted to see provisions of sub-section 2 of clause 12, which are identical.

Clause 12 ordered to stand part of the Bill.

Clause 13 (*Power to make rules*):

(1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules—

(a) regulating the appointment, resignation and removal of probation officers and prescribing the qualifications of such officers;

(b) prescribing and regulating the duties of probation officers;

(c) regulating the remuneration and expenses payable to probation officers; and

(d) specifying conditions on which societies may be recognised for the purposes of clause (b) of sub-section (1) of section 10.

(3) All rules made under this section shall be subject to the condition of previous publication.

Mr. S. C. JOSHI: Sir, I beg to move:

In clause 13, after sub-clause (3) add the following sub-clauses:—

“(4) Rules so made shall be published in the Official Gazette and shall have effect from such date as may be specified by Government:

Provided, however, that a period of at least three months shall be allowed to run from the date on which the rules were published to the date on which they came into effect.

(5) The Rules made shall be laid on the table of the Provincial Legislative Council and Assembly for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution of the said Council and Assembly. If any rule is so modified, Government shall republish the rule accordingly or rescind the rule.”

Question proposed.

Mr. S. C. JOSHI: Sir, I do not propose to restate the arguments which I have stated in respect of a similar clause on other Bills. My reasons are the same and I know that the reasons of the Government also are the same. This is a democratic Government now and a democratic Government does not want to give the power to the Opposition to rescind or modify or amend any of the rules and they have become the keepers of the conscience of the whole of the public and still we feel that it is necessary to have a power given to the Legislature to propose any amendments or modifications of the rules framed by Government in exercise of any powers conferred on them by any Act and that has been the practice in the past in every legislation and it ought to be continued, because that is a right practice.

With these words, Sir, I move the amendment.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat): Sir, I should not have stood up, but for the remarks made that this democratic Government does not wish to give power to the Opposition. Now, Sir, a democratic Government will not be a Government unless it is in a majority. No Opposition will ever be able to make any change either in the rules or in the legislation unless the majority is with them. If the Opposition were in the majority, the Government would not be there. The Opposition is always in a minority. That is the manner in which democracy rules, and that is why the argument that this democratic Government does not want to give powers to the Opposition is untenable.

Prof. SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, I should not have spoken had not my friend Mr. Shah put forward a very plausible argument, which can be shattered in five minutes. A democratic Government is in power today no doubt in this Province. Democratic Governments I have seen come into power in England when I was a student with a majority of 200 voters, and with power to sit there for five years. Within two or three years the democratic Government became so unrepresentative by its acts of commission and omission that the whole of England was up in arms, and the whole of the Press took up the fight against certain Bills that they wanted to pass. The result was that actually the King had to interfere. There was one Bill they wanted to pass, and the King intervened. So you cannot say that because you are here in a majority, you are a democratic Government representing for all time the will of the people outside: so that, that argument, I am afraid, will not hold water.

The only point is the question of principle. If my friend Mr. Shah was right why should a democratic Government be allowed to have an Opposition? It is in the majority, and it may according to his reasoning pass these Bills without consulting the Opposition, without even any meeting, if necessary. But the real idea which he forgets is that a democratic Government has to bring anything which it wants to do in the nature of an Act of the State before the House, put it forward for the scrutiny of the Opposition, however small it may be in its number, then see how far the Opposition's criticism is logical and fair and

[Prof. Sohrab R. Davar]

representative of public opinion, and if a democratic Government thinks—and if it is really a democratic Government, it must think—that the Opposition's point of view is correct, is in the interest of the nation, that what the Government are trying to do will do an injustice, then it is their duty to agree to the will of the minority.

Mr. SHANTILAL H. SHAH : As we have done in the case of two amendments.

Prof. SOHRAB R. DAVAR : You are then supporting my argument, and I am very glad. That is exactly what my friend Mr. Joshi has in mind. You take the power of framing rules. You may frame all sorts of rules ; the rules may be defective. You may do so with the best of intentions. I have no doubt that you do so with the best of intentions. Still, certain discrepancies might crop up, and somebody in the Opposition might point them out, and you may agree with that. That is the chance which my friend Mr. Joshi wants the Opposition to be given ; and what is the objection to that ? Otherwise, when the bureaucracy was in power, what was our complaint in common with yours ? We were all in opposition then. We all said, all who were nationally minded said, these fellows are very cunning ; they are putting a Bill in such a form that nothing seems to be objectionable, but they are reserving the power to make rules, and the rules framed are so artfully framed that the whole spirit of the legislation is destroyed and autocratic power is reserved in the hands of the bureaucracy. Well, we do not suspect your *bona fides*, I may tell you, because I have great respect for you : personally, I do not. But I am only arguing on principle and supporting my friend Mr. Joshi on principle. I have no doubt that he also looks upon it as a question of principle. Therefore, I submit that the Cabinet, if they have come to a particular policy, may reconsider this grievance of the Opposition, see whether it is logical or not, see whether there is something behind it or not, and if they think that this is a more comfortable method, I hope they will concede it, and put the rules before the House. What is the harm in it ? If they move amendments, you are in the majority and you can always throw them out if you think they are unreasonable. But you might change, just as the Honourable Dr. Gilder today very kindly agreed to an alteration voluntarily, which is a very laudable alteration, one of his colleagues might do the same when the rules are before us. I know that the Honourable Minister today perhaps cannot do so without consulting his colleagues, but I would submit that this is a principle for which you have fought in common with us, and therefore, why not support us ? Try to give some formula by which you will concede. Do not keep the grievance if you can avoid it. That is all that I say.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar) : Sir, I had no mind to make any speech on this Bill, but the strange ideas of my honourable friend Mr. Shah just make me rise and make a few observations. It is a great wonder that these ideas come from

[Mr. N. D. Deodhekar]

the honourable member Mr. Shah, because he is, as was pointed out the other day, a gentleman who believes in no private property. He is a Communist. That description of him was given to us by the Honourable Mr. Latthe. If the definition that he gave just now is his definition of democracy, I shudder to think what his definition of autocracy would be. He must not forget, and no one from amongst us should forget, that the Government is quite different from the Legislature of which we are the component parts here. They may rule with a high hand or with a mailed fist if they like. But when things come before us for being enacted into laws and rules are framed under it, it is just for us to see that no improper rules are made, and a democratic Government ought always to see on the touchstone here as to whether they are retaining the confidence of the people or of the Legislature about which they are boasting every now and then. Here the policy seems to be "hush, hush". They say "We are having these powers, and we know what is best for you, for the people, for the country, for everybody". The Opposition has got no representative character because their numbers are small, or because owing to the power of using threats two or three members from our side may be silenced. Democracy means rule by the majority, I agree, but it is for the Government to give us opportunities, so that it may be seen whether they retain the confidence of the public and the legislature or not. With these observations, I support the amendment.

Mr. R. G. PRADHAN (Thana *cum* Nasik *cum* Ahmednagar): Sir, I fail to understand why so much heat should be imported into a discussion of this amendment and why an unwarranted charge should be made against the Government that they are indifferent to the principles of democracy. [Interruption.] My honourable friend interrupts me and says that we are indifferent to—I do not know what he said. (An Honourable Member: To the Opposition.) To the Opposition! Well, if the claims of the Opposition are unreasonable, I do not see any reason why the Government should pay much heed to any such claims at all. It all depends upon the reasonableness or otherwise of the Opposition.

Let us consider this amendment on its own merits. I shall take it clause by clause. Firstly, it says:

"Rules so made shall be published in the Official Gazette and shall have effect from such date as may be specified by Government."

Well, I do not see any reason at all for this clause. Obviously, whatever rules will be framed by the Government under this Act will be published in the Official Gazette, and if the Government prefer it they may also specify the date from which the Act is to come into operation. So, so far as this part of the amendment is concerned, it is absolutely unnecessary. Then it says:

"Provided, however, that a period of at least three months shall be allowed to run from the date on which the rules were published to the date on which they come into effect."

[Mr. R. G. Pradhan]

Well, I do not understand why such a long period as that of three months should be prescribed. Certainly, on a question like this, the Government should have some discretion, and Government will be the best judge as regards the matter. They will be better able to decide whether the period to be prescribed should be one month, two months or three months, or any other period. So, this proviso also is unnecessary; it is not at all necessary to restrict the discretion of the Government in that matter.

Mr. N. D. DEODHEKAR: You accept the principle and quarrel with the period. What is the idea?

Mr. R. G. PRADHAN: I accept the principle, but that does not mean that the principle should be laid down in the body of the Act itself. It is not such a principle that it should be embodied in the Bill. The principle is perfectly sound, but the Government will do it of their own accord, and to that extent the Government have the right to be trusted even by the Opposition. I come to the next part of the amendment. It says:

"The Rules made shall be laid on the table of the Provincial Legislative Council and Assembly....."

If honourable members will refer to the body of the Bill, they will find that there is this provision there:

"All rules made under this section shall be subject to the condition of previous publication."

That obviously prescribes that the rules to be framed under this Act will be published and will be published previously. Unless the rules are published and published previously, they will not come into effect. Some honourable members seem to think that the absence of such a clause as is inserted in the amendment will deprive or is calculated to deprive the honourable House of the right of rescinding or altering any particular rule. Well, my submission is that the right has not been at all taken away. When the rules are published, any member is entitled to table a resolution that any particular rule should be modified or rescinded. That can be done by any honourable member. That is an inherent right which every member of this Legislature possesses, of getting a particular rule or rules altered or modified or rescinded. That right remains intact; the Bill does not at all take away that right.

Mr. N. D. DEODHEKAR: And face the ballot?

Mr. R. G. PRADHAN: You can't help it; you have to face the ballot sometimes. Even when you want to move an important resolution, you have to face the ballot. Democracy does not mean licence; it does not mean mobocracy. Democracy does not mean that every member has any right and he may do anything he likes. We want enlightened democracy; we want restricted democracy. We want a democracy which is subject to rules, and reasonable rules certainly. The condition that all the rules are subject to previous publication

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ought to be sufficient in the interest of democracy. You cannot help it. The ballot must be faced. The other day I tabled a very important resolution. I faced the ballot; I got the last place and I could not move it. These are the conditions of sound democracy, and this Government stands for sound democracy. We all stand for sound democracy and I do not think the Opposition is fair to the Government in suggesting, even remotely, that this Government is not fair about the claims of democracy and it does not treat the Opposition as it ought to. This is an allegation which we would be failing in our duty if we do not repudiate and I hope there will be no such allegation at any time in future.

Mr. N. D. DEODHEKAR: If you improve your ways.

Khan Saheb A. A. KHAN (Central Division): Sir, we have had very interesting and edifying lectures on democracy. I am extremely obliged to the members on the opposite benches for reminding us what the principle of democracy is. We already understood the principle of democracy only too well when we chose to approach our electorate and sought to secure a seat in this Council. It is true that democracy may be the rule of majority but while majority confers power upon its leaders, I never knew that it also conferred wisdom and infallibility upon them. I was surprised to hear that the Opposition was unreasonable, that the Opposition was illogical, that the Opposition was foolish, whereas the monopoly of wisdom was all on the other side. It is because of this that I have risen to support the amendment which is moved by my honourable friend Mr. Joshi. I think it is but right that the rules that Government will frame under the power given under clause 13, should be placed before this House and before the lower House for the purpose of discussion. We know and we can judge by the experience that we have had during the last 10 or 11 months that any opposition that we might launch against these rules and regulations will not be paid any attention to. Nevertheless, we do not think that the occupants of the opposite benches are past redemption. We have hopes, and they are high hopes, that after a time they will prove more reasonable, they will prove more amenable to logic and accept the view of this side of the House more often than they have been doing in the past, and it is in that hope—it may prove to be merely a pious hope, or it may prove to be a hope which will be fulfilled to the benefit of all—that this amendment has been moved, and it is in that hope that we want Government to place before us the rules for discussion.

The Honourable Dr. M. D. D. GILDER: Sir, I am very much indebted to my honourable friend the last speaker for telling us that the Government is not past redemption and for hoping that we shall some day do some good. The discussion has ranged very far and wide. My honourable friend the mover of the amendment himself very wisely did not advance any arguments because he knew exactly what arguments would be advanced to counteract his. To my mind, it is a pity that all legislation cannot be enacted by the Legislatures themselves. As you

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know, in former days, the Legislatures enacted all legislation. But now matters have got so complex that a certain amount of minor legislation has got to be left to the executive to do by way of rules; and the whole point in publishing these rules in the official gazette is for the Legislatures to see that the executive does not run away with the power that is given to them. I can assure my honourable friend that I have been in the Opposition for ten years in the old Council and I know what exactly my honourable friends feel. I was sitting cheek by jowl with my honourable friend the mover of the amendment.

The Government has no desire whatsoever to diminish the power or the influence of the Opposition in legislative matters, and what the Government would like is to convince the Opposition, to have it with them and to have legislation achieved by unanimity of both the sides. The function of government is carried on much better when there is a vigorous Opposition to criticise and we would like to have a vigorous criticising Opposition, not a carping Opposition, not an Opposition that obstructs, but an Opposition that, with common sense and with good reasons, opposes where it is necessary to oppose.

There is no desire at all to follow a hush-hush policy. The rules, as we said, are subject to previous publication. The words "previous publication" are defined in the General Clauses Act, as my honourable friend knows. When Government publishes draft rules, they appoint a day by which all objections have got to be sent in. They do not consider the draft rules at all till that day. On that day they take all the objections that have been sent in, they analyse them and they take into consideration every clause and every rule. Then the final rules are framed and then they are published. At their second publication they come into operation. It is open for any member of any House of Legislature to table an adjournment motion at the next session, or to table a resolution, or in the budget session to move a cut on a demand for grant.

Mr. N. D. DEODHEKAR: That can be done only in the Lower House.

The Honourable Dr. M. D. D. GILDER: Yes. In the Upper House they can ventilate their grievances at the budget discussion and I can assure the honourable member that the Government will give them fullest consideration. As far as the power to go to vote on that question is concerned, there is the provision of an adjournment motion or a resolution. But the very fact that the Government is in power to-day because it has got a majority means that it would be really speaking,—unless of course the Opposition can get some members from the Government party, unless the rule is so absurd that the Government party itself will not stand by that rule—not possible to out-vote the Government. That is a condition which considerably modifies the view we formerly took.

The objectionable point to which I and my honourable friends Mr. Joshi and Mr. Pradhan objected in former days was the further addition to this paragraph, namely, that even if the House passed by a majority that a certain rule should be rescinded or modified, the Government was not bound to do so. That was the rule that we opposed and

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that rule has now no significance at all, because if the House passes anything, it is now mandatory on the Ministry. It was not so formerly. So, formerly our great agitation was against that section and that section has disappeared, and I think what we are doing now is perfectly correct.

I hope my honourable friend will withdraw his amendment.

Mr. S. C. JOSHI : Sir, I am very much obliged to the honourable members for the very important discussion on this amendment of mine. I am particularly obliged to the Honourable Minister and to the honourable member Mr. Pradhan for accepting the principles embodied in the first of the two clauses of my amendment. As regards the point of time, it is merely a question of detail as to what time should be allowed for the rules to come into operation after they are published, and my amendment may be put so far as clause 4 of the Bill is concerned, separately, because there seems to be an agreement as regards the period of three or four months which I have mentioned.

So far as the other point as embodied in clause (5) of the amendment is concerned, it certainly is an important point. It is a matter of principle. No doubt, the Honourable Minister has said that the right of the Opposition is still there in the form of moving an adjournment motion. Now, perhaps, he will be the first man to object to an adjournment motion being moved on the ground that a resolution on that point could have been moved. Therefore, the remedy of an adjournment motion which he has suggested will be of no avail. Because I am sure that there will be the objection that there was sufficient time since the rules were published and therefore it is not open to an honourable member to table an adjournment motion, but that he can move a resolution on the subject. Therefore, the right which the Honourable Minister has suggested is possibly a right which the House or the members of the House may not be able to take advantage of. Now, supposing that a resolution is carried, the resolution will only be in the form of a recommendation and any recommendation the Government is not bound to accept. We have passed so many resolutions of a recommendatory character. I may remind this House of the resolution on the question of unemployment that has been passed. What has been done by the Government? Government have so far done nothing at all. This is merely to point out by way of illustration that resolutions have not the same value and importance as the right which the Opposition or this House had in the past under the provisions in the various enactments, in order to get the rules framed by Government modified, or amended or rescinded.

Therefore, the two rights that have been conceded are rights of really no importance. The real right which the Opposition should have would be the right as contemplated by sub-clause (5) of the amendment. That right this legislature possessed in the past in the various enactments. I do not know why Government should not be willing to retain that right. It might be said that the rules that are framed by Government will be so framed after full consideration of the objections. Sir, the

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Opposition would also not be so unreasonable as to suggest any unreasonable amendment to the rule. The Opposition would always be serious and will see that if anything wrong is done, to that extent only the rule or that section should be rescinded. I think that right of the members to ventilate the matter on the floor of the Legislature should be retained.

Now, we do see every now and then so many rules framed by Government and placed on the Council table in regard to the various Acts passed containing a clause similar to the one which I have moved by way of an amendment now. Now, how many occasions have there been in the past, even during the last 8 months, when the Opposition has actually taken advantage of the facility and come before the House? We do trust that the Government will do the right thing, but in case the Government makes some mistakes and some rules require to be considered, then only the question will arise. I do feel therefore that no unreasonable or undue advantage will be taken by the Opposition even if this power is continued to the Legislatures as in the past and that the Government in power ought to trust the Opposition. It is only by trusting the Opposition that the Opposition will have trust in the Government. I therefore submit that Government should not take it that by reason of this power which is sought to be obtained to the Legislature, it is intended to take advantage of this power and to unnecessarily worry and tire the House, or to take the time of the House for the purpose of merely debating a matter.

I do feel, therefore, that the sound principle which has been embodied in the other Acts passed should be continued and I am sorry that it is not possible for me to withdraw the amendment. In fact, it would be absolutely necessary to pursue it in every legislation that would be brought forward before the House, without, of course, unnecessarily taking the time of the House, but by saying that we are still anxious to pursue that power and that it should be with the Legislatures. It was with that intention only that I formally moved my amendment and did not make any long speech.

With these words, I do press my amendment.

The Honourable the PRESIDENT: I did not catch the last portion.

Mr. S. C. JOSHI: I said I press the amendment.

Amendment put, and negatived.

Clause 13 ordered to stand part of the Bill.

Clause 14 (*Barring of operation of section 562 of Act V of 1898*) ordered to stand part of the Bill.

Clause 15 (*Saving of the Bombay Children Act and the Bombay Borstal Schools Act*) ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

The Honourable Dr. M. D. D. GILDER : Sir, I beg to move that Bill No. III of 1938 (An Act to provide for the release on probation of offenders), as amended, be read a third time and passed.

Question proposed.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : Sir, I beg to move :

"In clause 4, after sub-clause (b), delete the word 'may'."

Sir, under the rules, a verbal change can be made at the third reading and as the word "may" is superfluous, I am moving this amendment. It is only verbal.

Amendment put, and agreed to.

Question, "That Bill No. III of 1938 (An Act to provide for the release on probation of offenders), as amended, be read a third time," put, and agreed to.

The Honourable the PRESIDENT : The Bill, as amended, is read a third time and passed.

BUSINESS OF THE HOUSE.

The Honourable Dr. M. D. D. GILDER : The House may now be adjourned till Monday. We hope the Goonda Bill will be ready by then.

6 p.m.

Khan Saheb A. A. KHAN : Why not give one more day and meet on Tuesday ? We who have to come from the mofussil find it very inconvenient to come here and then be told to go back after a day.

The Honourable the PRESIDENT : I think there is considerable force in the suggestion that the House should be adjourned till Tuesday, for the reason that if the House meets on Monday, it may be that the one Bill which is expected to come may be there, but there may be no work for Tuesday, which will again mean an adjournment and will not meet the convenience of honourable members coming from the mofussil.

Mr. N. D. DEODHEKAR : One point is that there is the Race Courses Bill. Why should it not be initiated here ? We should have the practice of Bills being initiated here and sent downstairs afterwards.

The Honourable the PRESIDENT : That suggestion may be considered by the Government, and I personally cannot tell the honourable member what should be done. I think it is a valuable suggestion which the Government may consider. So far as the adjournment of the House is concerned, I think it is better if I adjourn it till Tuesday next.

The House then adjourned till 2 p.m., on Tuesday, the 3rd May 1938.

Tuesday, the 3rd May 1938.

The Council re-assembled at the Council Hall, Bombay, on Tuesday, the 3rd May 1938, the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HALDIPUR, Mr. S. R.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, Khan Sheb A. A.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MARWADI, Mr. P. S.
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
 VIRKAR, Mr. M. B.

The following Ministers were also present :

The Honourable Mr. K. M. MUNSHI.
 The Honourable Mr. MORARJI R. DESAI.

STARRED QUESTIONS AND ANSWERS.

REMUNERATION FOR COLLECTION OF LOCAL FUND CESS.

*[73]. Dr. G. S. MAHAJANI (Poona *cum* Satara): Will the Honourable the Minister for Revenue be pleased to state—

(a) whether it is a fact that the inamdars are required to remunerate the village officers for the collection of local fund cess while in the case of Government villages the remuneration for such collection is charged on the District Local Boards ;

(b) if answer to (a) is in the affirmative, the reasons as to why such distinction is made ;

(c) whether Government will consider the desirability of applying the same procedure to inamdars as is prevalent in Government villages in this matter ?

The Honourable Mr. MORARJI R. DESAI: (a) Yes.

(b) In the case of alienated villages, the inamdar has to pay the local fund cess due from his villages ; he must therefore pay into the Government treasury the full amount of the cess. There is in fact no cost of collection. It is optional with the inamdar whether to collect the cess from his tenants. If he decides to do so, as he naturally will, he cannot expect to have the service performed for him for nothing. In khalsa villages, the local fund cess is credited to the local boards after deduction of the expenses of collection in accordance with section 75 (c) of the Local Boards Act.

(c) Government do not propose to amend the law or practice in this respect.

INCONVENIENCE CAUSED TO THE MUSLIMS ON THEIR VISIT TO THE HOLY DURGAH OF HAJI ALLI NEAR MAHALAXMI RACE COURSE.

*[64]. Mr. A. W. TAMBE (Ratnagiri District): Will the Honourable the Revenue Minister be pleased to state—

(a) whether Government are aware of the fact that some portion of the way to the Holy Durgah of the Muslim Saint Haji Alli, situated on an island near Mahalaxmi race course in Bombay, is through marshy land and is blocked by sea water when there is a tide and the remaining portion is through the rocks covered with shells which are dangerous to the naked feet ;

(b) whether thousands of pilgrims, including women and children, who visit the Durgah every year have to go by that way and many times they are handicapped by the sea water ;

(c) whether the residents of that island have to put up with great inconvenience in urgent matters when the way is blocked by sea water ;

(d) whether Government intend to take necessary steps for constructing a high level road or a causeway up to the Holy Durgah ?

The Honourable Mr. MORARJI R. DESAI : (a) The access to the land is across the foreshore which is rocky and is covered by the sea at high tide.

(b) Devotees of the shrine go to the place. They are naturally unable to cross at high tide. No complaint about inconveniences being suffered has been received by Government.

(c) The only residents are the Mujawar of the Durgah and inmates of the sanatorium on the island. They must certainly suffer inconvenience when the way is blocked by sea water.

(d) No.

Mr. A. W. TAMBE : Supplementary to (d). May I know the reasons for not constructing a high level causeway ?

The Honourable Mr. MORARJI R. DESAI : Because there is no obligation on the part of Government to do it. There is no other reason.

Khan Saheb A. A. KHAN : Is not there a large number of people visiting the shrine ?

The Honourable Mr. MORARJI R. DESAI : I do not know how many people visit the shrine.

Khan Saheb A. A. KHAN : Will Government ascertain it and find out whether it will tend to public convenience to construct a high level causeway there, just as it tended to public convenience to construct roads at Haripura ?

The Honourable Mr. MORARJI R. DESAI : If my honourable friend does not know, I may inform him that no new roads were constructed at Haripura. Only the existing roads were repaired. If you construct a causeway, Government will consider the question of keeping it in repair, but there is no possibility of Government constructing the causeway.

BILL No. XIX OF 1938 (AN ACT TO AMEND THE CITY OF BOMBAY POLICE ACT, 1902).

The Honourable Mr. K. M. MUNSHI : Sir, I introduce Bill No. XIX* of 1938 (An Act to amend the City of Bombay Police Act, 1902).

The Honourable the PRESIDENT : The Bill is introduced.

The Honourable Mr. K. M. MUNSHI : Sir, I move that Bill No. XIX of 1938 be read a first time.

Question proposed.

The Honourable Mr. K. M. MUNSHI : Sir, the necessity of bringing in this Bill arose in this way. Since 1902, there is section 27 of the City of Bombay Police Act of 1902, which runs as follows :

"Whenever it shall appear to the Commissioner of Police that the movements or encampment of any gang or body of persons in the City of Bombay are or is causing or calculated to cause danger or alarm, or a reasonable suspicion that unlawful designs are entertained by such gang or body or by any member or members thereof, or that an outbreak of epidemic disease is likely to result from the continued residence in the city of large numbers of pauper immigrants, the Commissioner of Police may, by beat of drum or otherwise as he thinks fit, direct the members of such gang or body, or such immigrants, so to conduct themselves as shall seem necessary in order to prevent violence and alarm or the outbreak or spread of such disease or to disperse and remove themselves to such place or places, by such route or routes, and within such time, as the Commissioner of Police shall prescribe."

Then follow other sections which are not material for the purposes of the present Bill. Under this section, the Commissioner of Police has been up to this year removing from the city of Bombay dangerous characters or persons who are engaged or about to engage in the commission of offences of all sorts and kinds.

It is well known that Bombay, like most international ports, has an under-world of criminals, that these criminals prey upon the poor people of the city, that no crime is unknown to them, and that they live by extortion and by all kinds of devices. I may give for the benefit of the House the *modus operandi* of persons like these. In one case, for instance, the persons used to go about Foras Road, extorting money from shopkeepers and prostitutes at the point of the knife, and the victims were so terrorised that they had no courage to go to Court. Ultimately, they approached the Police Commissioner; the Police Commissioner took evidence and removed the culprits from the city under this section. Another interesting case was of a gang of people who used to go about gardens and other places where people sit down, sometimes alone, on a bench. One of the gang would come forward, accost the person, and ask him to pay some money. The man would naturally refuse. The other three people would then promptly come forward and say "You too have committed offence, and therefore we will take you to the police unless you pay us some money", and money was extorted in that form,

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the offence mentioned being of such a character that nobody would like to go to the police or to a court of law and get implicated in the offence. That was the method which was adopted by that gang. Another instance was of a gang of about 11 men headed by a European, ostensibly moving about in decent society. They were carrying on their nefarious trade in Calcutta, but could not be caught by the Calcutta police, but when they thought that they were going to be caught they transferred their activities to Bombay. When the Police Commissioner here came to know of it, they were promptly bundled out of the city under this section. In this way, not less than about 500 to 600 persons, whom I described in the Assembly as *pucca mavalis* are being turned out of the city for the last two or three years. Of course in some years the number is less and in some years more. It all depends upon the accident whether in a particular year a large number of such persons come to Bombay or not. In all these cases the one common principle on which this section was applied was that the victims were so terrorised that they would not go to a court of law and appear as witnesses. In one notorious case the Police Commissioner thought that he might as well call the witness and confront the accused with him. He did it; the prompt result was that the suspect knifed the witness; and thereafter it became very difficult to get witnesses to come forward in public. All that they will do and can do is to go to the Police Commissioner or the officer authorised by him and make their statements. After the statements are recorded and the case is properly investigated, the man would be called and asked to explain, and ultimately an order would be passed. This state of things continued till February 1938.

Then there occurred the well-known Yar Mahomed's case. He broke the order of the Police Commissioner, came back to the city and challenged the validity of the order. The matter went up to the High Court, and the High Court decided that the words in the section "movements or encampment of a gang or body of persons" did not mean the activities of a member of it, that "movements" could not be taken in the sense of activities of the gang, but the process of its moving. Therefore, the High Court held that to attract the applicability of this section, it must be held by the Police Commissioner that the gang was actually moving from place to place. So the restriction on the meaning of the word "movements" created this difficulty that the persons who were not actually moving from place to place could not come under the section. That was the reason why it became necessary to use some other word instead of the word "movements". In the Bill before the House, Sir, you will find that the words used are "movements or acts", because that was the meaning attributed to it so far, till the judicial construction was given to it in last February.

Now the importance of this section is that, unless you have got some such power, it would be impossible for the police to bring to book people who are so terrible as to prevent witnesses from coming forward.

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Nobody would come forward to give evidence if he knew that there was certain death facing him the next day. That was why it became necessary to amend this section,—in order to make it clear that not only the movements in the sense of moving from place to place but even the acts of such persons would be sufficiently dangerous to the peace of the city. I dare say that honourable members who have followed the controversy in the lower House would know the different stages when Government tried to consult the leaders of the Opposition and the various changes made from time to time. But I would mention at the same time another change which was made in the Bill, and for this reason. If the old section 27 stands there as it is, and this Bill is not there, the powers of the Police Commissioner, as I shall presently point out, are not extinguished by the decision of the High Court. Under the section as it would stand if the Bill were not accepted, the powers would be without the safeguard, as compared with the new section proposed by Government in this Bill. Now, for instance, take the words “causing or calculated to cause danger.” Government thought that the word “danger” by itself is very wide and capable of being applied to offenders other than the class which I mention, what I may call, the *pucca mavalis*. Therefore, the words “danger or harm to person and property” were used. So that, a person who is a danger to the society in the political sense would not be included in the section. Then the next words “reasonable suspicion that unlawful designs are entertained” are also extremely wide. Manufacturing illicit salt would also be an unlawful design for the purpose of this section, though the section was never used for that purpose. But as these words are very wide, it became necessary to restrict the words, so that a regular or would be criminal only can be covered by the section. Therefore, the words used here are “there are reasonable grounds for believing that”—not a mere suspicion—“such person is engaged or is about to be engaged in the commission of an offence involving force or violence”—these are the words of section 146 of the Indian Penal Code “or an offence punishable under Chapter XII”—this deals with counterfeiting coins—“Chapter XVI”, that is to say causing injury to human body and “Chapter XVII” which deals with offences relating to property i.e. extortion, theft etc. “or in the abetment of any such offence....”. Therefore, the scope of the section is considerably restricted, and the vague words of the section are taken away. The Police Commissioner will now exercise his discretion only in cases which I told just now where the man is a regular criminal.

The next point with regard to the new Bill is to incorporate into it the real basis why this Bill is necessary. As I told you, Sir, the reason of having a section like this is that the witnesses against certain classes of criminals are not forthcoming. Therefore, the section is sought to be restricted only to those cases and not others. The old section is wide enough to cover even the cases where the witnesses are forthcoming. Therefore, the next sentence imposes another restrictive condition and it is this “and when in the opinion of the Commissioner witnesses are

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not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property."

Then clause (b) is the same as it was and it is about immigrants whose continued residence in Bombay will be a danger to the public health.

Now, not content with this, Government thought that what the High Court had laid down as certain safeguards in that judgment should be recognised in the statute. The point there argued was whether a court could sit in judgment over the decision of the Police Commissioner, and following several English and Indian authorities the High Court came to the conclusion that it was open to the Court to look into the order on certain grounds, the first of which was whether the suspect was informed of the material allegations that were made against him. That was one of the grounds laid down by the Honourable the Chief Justice in that judgment. The second point was, whether he was given an opportunity to explain his conduct and the third was whether there was any material before the Commissioner of Police to come to the conclusion which he did. In a recent case, however, the Privy Council has held on a construction of similar words that it would not be competent to the Court to inquire into these matters. Now, that was a matter of doubt and whatever the present law or the opinion of the Privy Council may be, Government thought that the safeguards which had been put forward by the learned Chief Justice were very sound and that the person who was going to be removed should be protected by these proper safeguards. The safeguards that have now been added are sub-clauses (3) and (4). Sub-clause (4) says :

" Before an order under sub-section (1), (2) or (2A) is passed against any person, the Commissioner of Police or any officer authorised by him not below the rank of a Superintendent..... "

This is a safeguard because only a Police Officer not below the rank of a Superintendent—it is not the Sub-Inspector now—can take evidence in this matter. It says :

" shall inform such person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of explaining those allegations."

Therefore, the first safeguard is that the man must be informed of the material allegations against him in writing and a reasonable opportunity of explaining those allegations given to him.

" The Commissioner of Police or such officer may also examine witnesses, if any, which such person may produce, and any written statement put in by such person shall be filed with the record."

This is an additional safeguard which was not even contemplated by the High Court, because the High Court did not say that the Police Commissioner was bound to hear witnesses the man might produce.

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So, this is a further safeguard that has been put in. Then, again, another safeguard is that there should be a written statement. It may be that the man may not be able to explain the thing properly, or it may be that he may not have the money to brief a lawyer of sufficient competence who can do justice to his case, but it would be open under this clause to submit a written argument of his case, so that that will be part of the record when the case comes before the Police Commissioner or before the Government in appeal. The next safeguard is :

"Such person shall be entitled to appear before the Commissioner of Police or the said officer by an advocate or attorney for the purpose of explaining the allegations against him and for the purpose of examination of witnesses produced by him."

Then the next safeguard is sub-clause (6) which is as under :

"Any person aggrieved by an order made by the Commissioner of Police under sub-section (1), (2) or (2A) may appeal to the Provincial Government within thirty days from the date of such order."

So that, it is further provided that the whole record can be placed before Government to consider whether the order was proper or not. To that extent it is a distinct safeguard in advance of the existing position.

Then comes sub-clause (7) which is thus :

"An order passed by the Commissioner of Police under sub-section (1), (2) or (2A) or by the Provincial Government under sub-section (6) shall not be called in question in any Court except on the ground that the Commissioner of Police or the officer authorised by him under sub-section (4) had not followed the procedure laid down in the said sub-section or that there was no material before the Commissioner of Police upon which he could have based his order or on the ground that the Commissioner of Police was not of opinion that witnesses were unwilling to come forward to give evidence in the public against the person in respect of whom an order was made under sub-section (1)."

Therefore, all the safeguards laid down by the High Court and some more, namely, examination of witnesses and other things, have been introduced. The order of the Police Commissioner, however, will not be called in question except on the ground that the proper procedure was not followed. Therefore, this not only accepts the view of the High Court, but includes many more safeguards.

The position, therefore, is this. This section is intended only for cases where the witnesses cannot come forward and which therefore could not be the subject matter of a judicial inquiry. All the other safeguards which generally attend a trial in a court of law, excepting having witnesses examined and cross-examined in public, are given to the person. This is, therefore, the scheme or what I may call the permanent part of the section. As I stated, the section was used for the last 35 years and it is not alleged that this has been used during the last 35 years for any other purpose except the one for which it was intended, namely, of removing from the City the hooligan element which is a serious menace in times of peace as well as during a riot.

[Mr. K. M. Munshi]

My first submission is that it is essential that a power like this should vest in the Police Commissioner in ordinary times, so as to rid the city of the instruments of unsafety. My second submission is that all the safeguards which are either suggested by the learned Chief Justice or which could be devised by the combined wisdom of not only the Government side, but the leaders of the Opposition who met in an informal conference with me and some of my colleagues, are duly provided. The necessary safeguards, therefore, against the abuse of this section are provided.

Then in addition to that, there is clause 2C. Now, as honourable members know very well, this city has been a prey to recurring riots for the last so many years. We ordinarily attribute them to communal feelings. But really and truly the riots begin with this hooligan element in the city and are continued by them for their own benefit. They loot the shops; they kill the people; and but for them there would not be riots in the sense in which Bombay knows them for several years now. It was thought proper and rightly that the power which has been given to the Police Commissioner with the safeguards which we have added will be useless during a riot or when a riot is apprehended. For instance, the laborious process that we have mentioned, of examination of witnesses and arguments by lawyers, cannot be gone through with a riot pending actually going on. Therefore, during those times a much more drastic remedy, an additional remedy, mind you, is necessary. A number of people are under an erroneous impression that the sub-section which deals with emergency is the only amended section. I find this even in some newspapers. Really speaking, it is an additional power which is given to the Police Commissioner in times of emergency or apprehended emergency. I need not take the time of the House except by stating the facts which I mentioned to the Assembly to justify the incorporation of a clause like this. From February 1929 up to April 1933, that is 9 years and 2 months, there were 10 communal riots in the City of Bombay. I have not got the figures of some of the minor riots. Therefore, I could not give complete figures, but I will give the official figures of the major riots which I have collected. In 1929 there were two communal riots. My honourable friend Mr. Karanjia who was a member of the Peace Committee on more than one occasion will amply bear me out as to the horrors of the days when the riots took place in Bombay. In 1929 there were two communal riots. In the first one 149 were killed and 739 injured; it occupied 36 days. There was a second riot in which 35 were killed and 109 were injured, and it lasted for 22 days. That is one year's accomplishment. In 1930 there were two riots. I have not got the figures and the days of this year. In 1932 there were again two riots. I have not got the figures of the first one, but in the second one 217 persons were killed, 2,713 injured and it lasted for 49 days. Then there was one riot in 1933. I have not got the figures, and in 1936 there was again a riot in which 94 were killed, 632 injured and it continued for 65 days. In 1937, 11 were

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[Mr. K. M. Manshi]

killed, 85 were injured and it occupied 21 days. In 1938, that is, the recent one, 12 were killed, a little over 100 were injured—I am not sure about the number and it lasted for 2½ hours. But you will see what havoc can be created in the City of Bombay in such a short time by the element which I have characterised as *pucca maralis* and with whom by now people are familiar. Totalling up this and omitting, for the time being, the figures which I have not got, the result comes to this, that in the course of 9 years and 2 months, there were 10 riots in which 550 persons were killed, 4500 were injured and the riots occupied 210 days. If I had all the figures, perhaps these figures would be much larger, but even as the figures stand it is really a case in which the ordinary citizen must agree to take certain measures against the element which runs riot during these days and therefore section 2C has been inserted in the Bill.

Now, I find from several amendments of my honourable friend Mr. Joshi that he is trying to bring it into shape by trying to take some portion of (2C) and putting it somewhere else. But (2C) is a self-contained section. The reason is we do not want to connect the emergency sub-section with the ordinary part of the section. Therefore, all the material powers or limitations have been reproduced in this sub-section. If you see, Sir, the use of the sub-section depends upon, first, a proclamation of emergency. As Dr. Ambedkar said, a proclamation of emergency has this advantage that the Provincial Government having taken upon itself the burden of saying that the emergency has arisen, the honourable Houses have an ample opportunity to have the conduct of the Government in declaring the emergency duly threshed out on the floor of the House. The period for such emergency is restricted to one month, unless the situation was such that it required extension. It follows the procedure of the other section, except that relating to evidence. The order made by the Police Commissioner has been made final except for an appeal to the Government. A civil court will not be able to sit in judgment over this, but the advantage is that the order expires immediately after the emergency is over automatically and, therefore, it is merely a temporary holiday which some gentlemen are given by the Commissioner of Police. His presence in Bombay may not do any damage to his health, but his holiday is necessary in the interests of the health of the City. Rather than have riots, curfew and other orders, and suspend the normal operations of the City, it is just as well that a few gentlemen may have a holiday in either one of the suburbs or district towns with liberty to return after a month. This is the scheme of section (2C).

Sir, this is practically the whole Bill. Straightway I may mention that there are one or two amendments which will be acceptable to Government. One of them is the amendment moved by my honourable friend Mr. S. C. Joshi that a proviso should be added to section 128. It is consequential. Of course, at a late stage Government's attention was drawn to it, but it was considered that once an emergency came to an end, the order under section 128 would cease to have operation.

[Mr. K. M. Munshi]

Then there is another amendment of the honourable member Mr. Shantilal H. Shah. As you will see, in sub-clause 5, the Police Commissioner is given some of the powers under the Criminal Procedure Code to issue a warrant against the suspects in order that they may be brought before him, but there is a wholesome check on this power provided by the Criminal Procedure Code that the man must be put before the court once in 14 days and that he should not be remanded for an unlimited period. A doubt was raised whether in view of the power given by the section, the power of remand could be implied. It is much better, it was thought, to make it clear that the man must be put up as in ordinary law, it should not be open to argument that a suspect can be kept for any number of days. So the safeguard which is given to an ordinary criminal is provided. It merely clarifies the position.

So, I can say at this stage that these are the two amendments which I would be willing to accept so that unnecessary energy may not be spent. Then another matter is of words used in the preamble. The words used are "public peace and tranquillity", but in (2C), sub-clauses (i) and (iii), by some curious mistake, the words have been transposed as "peace or public tranquillity". The words generally in use and used in the Government of India Act are "public peace and tranquillity". It is clearly a mistake and there will be a verbal amendment in the interest of uniformity of phraseology.

These are the main grounds for bringing this Bill. We heard in the Lower House, as you must have seen from the papers, any quantity of things about civil liberty and the rest of it. In this connection, I may repeat the assurance which, on behalf of Government, I gave to the Lower House that this section is not intended and will not be used against any political worker in respect of a political activity for the simple reason that the first section itself pre-supposes that the man is about to engage or is engaged in the offences specifically mentioned there. Therefore, a political worker could not be penalised for his political activity. If he happens to be, side by side, carrying on, say, a trade of counterfeiting coins, it would be another matter. It was said by one member in the Lower House that such a person should also be protected. That would mean that membership of the political societies in Bombay would grow by leaps and bounds and very soon the majority will be of this class of people.

Mr. N. D. DEODHEKAR : For whom is the compliment meant ?

The Honourable Mr. K. M. MUNSHI : For him in whose interest the suggestion was made.

Therefore, it fully safeguards the political worker. As regards strike or labour activity, an assurance was given by me in the Lower House, and which I repeat, that this section will not be used against persons concerned in a legitimate strike or a labour activity. Of course, if a strike ceases to

[Mr. K. M. Munshi]

be a strike and becomes a Hindu-Mahomedan communal riot, as it did degenerate in 1929, it will have to be used ; but so long as it is an economic strike or a legitimate labour activity, the power will not be used. So there is an end to this argument.

Of course, I cannot meet as I did not succeed in meeting *a priori* arguments which are absolute, namely, that whether a man is a *marali*, a *pucca marali*, an extortionist, or a man going to be engaged in a serious offence, his civil liberties should be so sacrosanct, he must be put so high above the civil liberties of everybody in the City that except for a judicial trial he should not be sent out. This is, to my mind—and every political thinker will agree with me—a fallacy. The civil liberty of a citizen is the civil liberty of the citizen going in the normal walks of life. It is not criminal liberty, as Mahatmaji once said. There is no licence for criminal liberty in any society whatever, and this Bill is solely intended for the actual or the potential criminal who is a danger to the City. In the preamble you will find the words “ dealing with persons who are a danger to the City of Bombay ”. Those are the only people who are sought to be affected. It was argued by one of my honourable friends in the Lower House that by this you are affecting every citizen of Bombay. But they are not all committing offences under chapters XII, XVI and XVII of the Code. It is in the interest of these very people, that this class of people should be properly dealt with. I hope the Bill will meet with the acceptance of the House.

With these words, Sir, I move the first reading of this Bill.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District) : Mr. President, I welcome the amendment of this Police Act. Some members may say that they congratulate the Home Minister or the Ministry for it, but I may say that “ congratulate ” is not the correct word for it. I think, Sir, they will receive the blessings of those who are surviving and the survivors of all the innocent people who were murdered in the riots and on certain occasions during riots. It was said in the Lower House that the Congress is digging its own grave. I may say that those who are opposing this amendment are digging the grave for those innocent people who will be murdered and slaughtered in cold blood and I think the curse will be on those who oppose this amendment. Sir, again it was said that it is a black spot on the career of the Home Minister. I may say that it is the brightest spot and people will come forward and make *chanda* mixed with *kunkoo* and gold on the forehead of our Home Minister. Sir, what is the duty of the Home Member ? To preserve law and order. Our properties and our persons are all entrusted to the care of the Home Member and he is supposed to be the managing trustee to safeguard our life and property and the Cabinet as the other trustees of the Trust.

Sir, I can say with pardonable pride that not one member here, not one member in the Lower House, is thoroughly acquainted with the real facts of these riots and this hooliganism.

[Mr. B. N. Karanjia]

Sir, I am not talking about what the Honourable the Home Member said about trapping certain people and extorting money; they are all petty things. But I am talking from my own experience of what happened during all these riots, because I was there, I was in charge to arrange certain things under instructions of the Chief Presidency Magistrate during the riots and I was one of the hardest worked persons, and also I must come forward and say, I am one of the greatest sufferers, and I have lost to the tune of, not hundreds and thousands, but of lakhs during these riots, due to hooliganism and also due to certain circumstances caused by riots. Just before my office there is a big *moholla* occupied by Shikarpuri money-lenders. Every day they used to carry on trade to the tune of Rs. 50 lakhs, taking securities and advancing loans and sometimes advancing without securities. The riot started there—I am talking of the 1932 riot. Before that, the riots were small riots. On very flimsy excuses, all of a sudden, the *mavalis* and hooligans turned up and assaulted poor innocent persons walking along the streets and going by tram cars. There were Hindus, Mahomedans, Parsis and Christians. They were all harboured in my office, and in my car and other cars they were sent away to safe places. I saw what was going on there, and if I were to narrate and bring to the notice of this House and the lower House the incidents that happened then, it would take four days. What is happening in Bombay City? Are we living in this barbarous city, or what? This is all due to the barbarity of certain hooligans. Sir, during the riots I was walking along Abdul Rehman Street. A poor innocent man was walking just in front of me, and another man was walking just next to him. All of a sudden, the first man shouted "*mari gayo, mari gayo*". I said to my mind, what has happened? I saw no man assaulting him, nor doing him any harm. But suddenly the man who was following him ran into a gully. And what did I see? If I were to see now what I saw then, I would faint. All of a sudden, the man fell to the ground, with his bowels and intestines coming out with blood, and the man was in a dying condition. He was removed to the hospital but he died on the way. How did this happen? I learnt about it afterwards when I saw all the weapons used by the *mavalis* in the riots, stored in one of the rooms of the Stipendiary Magistrate Mr. Brown. There were spears which I had never seen before; there were knives, there were arrows and bows and *gophins* and all sorts of other weapons to kill the innocent people lying there, which were afterwards sent to the museum. I saw there a kind of knife, which explained how the poor man was murdered. It was a knife about 6 inches in length, with a powerful spring. The *mavali* must have killed the poor man only by going to his side and pressing the spring of the knife he had in his hand, and the knife must have sprung out cutting open the abdomen of the victim, killing him immediately. Are you going to tolerate this kind of thing in this city? The next day, one of the Knights came to me and told me that he had to go on riot duty. He went there and what did he see? Near Bhendy Bazar a poor sweeper woman was stabbed from the back and the man ran away. The Knight came to me at once and

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said "I will not go to do my duty in these riots, because I cannot bear the sight of these murders". Are you going to tolerate such things in Bombay ?

Sir, these hooligans are Hindus and also Mahomedans. They are not restricted to one class. All these hooligans are creating this mischief to serve their own purpose. Sir, when they are deported, some go to Kurla and some go to Bandra. They are not deported 300 or 500 miles away.

It has been said that the danger is that if these powers are given to the Commissioner of Police, they are liable to be misused. I say, Sir, that the morale of the police has absolutely changed in these 10 years. The police are absolutely intelligent now. They are not corrupt. There may be some cases of corruption, but only very very rare. But so far as the Commissioners of Police are concerned—the former Police Commissioner and the present one—we can trust them blindfoldedly. Even the beggars have to be deported. If they commit a third offence, they are to be deported. But even in the case of beggars, they try and try, and they are so kind to them also that all of a sudden they do not deport them. They give them chances. They tell them "All right, will you go to your native country? Will you do this thing and that thing?" And then if they insist on living in this city and creating trouble here, they are deported. The Commissioner of Police always takes care to see that the *pucca mavali*, as the Home Minister stated, is deported, and not the *kacha mavali*.

Sir, during the riots what is happening? I know that certain shops and certain business premises have been looted and burnt, and some are burnt by the owners in order to get compensation. In this connection, I would ask the Home Member that it is now high time to find out better methods by which compensation is to be paid to the people who have suffered loss in the riots. What happens is this. A man coming from Delhi, or Lahore, or Poona or Satara murders a man during a riot in one of the localities in Bombay; the man runs away, and the poor victim is killed, and the compensation has to be paid by the innocent people, the innocent business men, and by the innocent landlords who have nothing to do with these riots and who have never stirred out of their houses during the riots; it is they who have to pay compensation. Is that proper? Of course, to compensate these victims is absolutely fair and just. But to throw the burden on the poor landlords and the poor commercial people of the locality is absolutely unjust.

Then, Sir, during the riots the policemen were on duty for 48 hours at a stretch. There were both Hindu and Mahomedan policemen doing duty like this. During that time they did not have even a cup of tea. All the shops were closed, nothing was available, and they were starving as they had nothing to eat. This sort of thing happened during the riots.

[Mr. B. N. Karanjia]

Sir, the Honourable the Home Member pointed out that no one comes forward to give evidence. That is absolutely correct. Even now the beggars and hawkers are creating trouble in the trains. The Government of India wanted to amend the Act. If there is any witness coming forward to give evidence, then the Railway Companies have got the right to prosecute. But no witnesses come forward. In the same way here, people do not come forward to give evidence. Therefore the power must be vested in the head of the police in the city, so that he may, after due consideration, deport a person who is guilty of these offences.

Sir, I know that the Honourable the Home Minister is a brave man. He is acting according to his conscience; he is not afraid of anybody. In the same manner, in making my remarks on this Bill in this House I might say that the amendment of the Act that is proposed is a mild one. I say that these hooligans should be deported, and for ever. They should not be allowed to come back to the city.

Sir, before 1929, why were there not any disturbances or differences of opinion between these two communities? Why all of a sudden from 1929 this thing came on? From 1929 to 1938 there were 10 riots. Before that we were carrying on business peacefully for 50 to 100 years. Why all of a sudden this change of attitude between the two communities came on? Sir, it is not due to the peaceful citizens. It is due to the hooligans.

Sir, it is said that the police and the Home Member will take advantage of this amendment of the Police Act and these arrested people will be deported wholesale. I do not think that the Home Member or the Police Chief is so severe as to deport all these people, about 4,000 or 5,000 who are arrested. There may be many innocents among them. A regular trial will take place, and then only those who are absolutely *pucca mavalis* will be deported. There need be no fear that all those who have been arrested during the riots will be deported.

Sir, during the riots we used to search big chawls inhabited by Hindus as well as Mahomedans. There we found weapons of a kind which we had never seen before, even in the *Chor Bazar*. Those weapons were of a kind which were meant only for murdering innocent people. Unwary people, people coming from outside Bombay used to be taken to certain localities and there murdered in cold blood. Is it fair to the City of Bombay? And why are these riots going on in Bombay alone, and why not in other big cities? There is something wrong.

Sir, the Home Member quoted figures of casualties. I need not say that the figure was very much larger. During the riot of 1932 several people were murdered. They were not taken to the burial or cremation ground. There were 56 bodies of Hindus and Mahomedans lying in the Sir J. J. Hospital, and they were to be disposed of. The police could not do it in the absence of a magistrate. I was sent for. I went to the

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Sir J. J. Hospital, and what did I see ? I saw all those bodies of Hindus and Mahomedans dumped together ; they were all decomposed, and you could not even recognise whether it was the body of a Hindu or a Mahomedan, or of a male or female. They were all decomposed and stinking to such an extent that I could not bear it. I came back to the police station and I asked other magistrates to go there, but they did not go except one, Major Paymaster. The bodies were then taken to the cremation ground and they were all burnt, Hindu and Mahomedan. Is it right for the hooligans to create such disturbances and kill people in cold blood ?

I have nothing to say further, but I can only say that the Ministry
 3 p.m. as well as the Home Minister will receive the blessings
 of all the law-abiding people in Bombay City.

Sir, I wholeheartedly support the amendment of this City of Bombay Police Act.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar) : Sir, before beginning my remarks on the Bill that is presented to us, I would like to congratulate the Honourable the Home Minister on speedily terminating the recent riots that took place in Bombay. When we turn to the history of the introduction of this Bill we cannot overlook the fact that it is being rushed in this House as well as in the Assembly taking advantage of the surcharged atmosphere. The Honourable the Home Minister told us that before introducing this Bill in the lower House he called members of the Opposition, took them in confidence and discussed matters with them, but still from what passed there we cannot say that he carried the members of the Opposition with him and we know that the Bill there was opposed tooth and nail for two or three days. We have to thank the Opposition for the strenuous efforts in getting whatever improvements we have got in the Bill, as we find from the Bill that was introduced originally by the Government and the Bill as it is read the third time in the lower House and as it has come to us here.

Sir, we cannot overlook the fact that Government is one continuous institution and the powers that Government want to have or to give to the Police Commissioner may not one day be controlled by the same members who are occupying the treasury benches today. If it is an indication that the present occupiers of the treasury benches have once and for all given up the idea of breaking or wrecking the Constitution and they want to stick to the office which they are occupying, it is a good sign. After all, the form under which we are running the Government is a democratic form of Government and all democracies have to face one danger, of having some fratricidal differences and some members crossing to the other side and leaving Government in minority. That is the normal danger which all democracies the world over have to face. Unfortunately, however, our democratic Governments have to face two or three other dangers as well. In some other Provinces something may take place, just as we had the crisis of Bihar and United Provinces, or

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just as we are having certain things passing in Orissa just now, and our Government, though having confidence and backing of the majority, still shall have to resign, or the inner voice of some leader may compel them to resign in spite of their being in majority, and under those circumstances, the powers may vest in other hands. So, before taking all these powers Government must well take into consideration this fact that the powers that would be controlled by them today may after some days pass into other hands, and under these circumstances it is for us to consider as to whether these powers should be given to the Government and the Police Commissioner or not. We are asked by the honourable member Mr. Karanjia to trust to the discretion of the police, or of the Police Commissioner. We know what the police are in spite of what he told us to the effect that the morale of the police is improved within the last 10 years. We know, Sir, what that morale is. Even 3 or 4 years back the Congress slogan was "*Pivli Pagdi hai hai*". May I know if it was not sincere, or was it in the nature of false wailings of hired mourners in Gujarat where it is customary to call some mourners on payment when a relation is dead? Sir, I think the slogan was real and we know that the police with their extraordinary powers cannot be trusted and, therefore, we cannot support the first reading of this Bill, unless and until Government give us an assurance that the powers that they are going to take would be restricted to a period of 2 or 3 years. After that period Government can again bring in a measure of a permanent nature.

Under these circumstances, I oppose the first reading of this Bill.

Mr. S. C. JOSHI: Sir, before I offer a few observations on the provisions of this Bill, I should like to join in expressing our congratulations to the Honourable the Home Minister on bringing under control the very serious situation that was created by the recent riots and also on effectively checking them at the earliest opportunity. So far as this Bill is concerned, it, to some extent, encroaches upon the fundamental rights of the citizens. This is done, first of all, by giving some wide powers to the Commissioner of Police who is authorised to restrict the freedom and liberties of the citizens under certain circumstances. Secondly, this Bill encroaches upon the fundamental rights in some cases by either taking away the power of the Courts and, in other cases, by restricting the powers of the court of justice to enquire into and decide upon the validity or otherwise of the orders passed by the Police Commissioner as an executive officer. This measure was introduced in the Assembly as an urgent measure and even the usual Standing Order of giving notice of seven days after the publication of the Bill was suspended by the Honourable Speaker there. It is therefore necessary for us to be satisfied as to the real necessity of giving wide powers which are sought to be given which are an encroachment, as I said, on the fundamental rights of the citizens and also as to the urgency of doing so.

[Mr. S. C. Joshi]

Now, it is said that section 27 of the City of Bombay Police Act was being interpreted by the Commissioner of Police, since the very date of its enactment for the last 30 or 36 years, in a way so as to use the powers vested by that section against an individual although he was not associated or was not a member of any gang or a body of persons.

The Honourable Mr. K. M. MUNSHI : I did not say that it was used against an individual.

Mr. S. C. JOSHI : I am sorry. Of course, it would have been much better if the Honourable Minister had stated exactly whether the section was ever used against an individual although he was not connected with any gang or a body of persons. To me it appears that the wording of the section is absolutely clear. It is not capable of any other interpretation than the one, namely, that it can be used only against a person who has been proved to a member of a gang or a body of persons engaged in actions mentioned in that section. Against an individual it can never be used and if at all it has been used against any particular individual, when there was no proof available that he was a member of a gang or a body of persons, that was an illegal use of the provisions of this section. It was an abuse of the powers vested in the executive by the legislature. We would therefore like to know exactly whether this section was ever used by the Commissioner of Police in the City of Bombay against individuals who had no connection with others.

Now, this section was interpreted by the High Court not only now in the famous case of Yar Mahomed, but it was interpreted by the High Court even in the year 1934 in another case (Criminal Appeal No. 504 of 1934) and in this very judgment of the Full Bench of the High Court this is what has been stated by the learned Chief Justice. After quoting section 27, the learned Chief Justice says :

"The scope of the power vested in the Commissioner under that section was discussed by a Division Bench of this Court in Revisional Application, No. 504 of 1934, and it was there pointed out that the section is of very limited application. The section is one of a group of sections, extending from section 23 to section 29 (both inclusive), which are headed 'Special Orders' and which confer upon the Commissioner of Police power to deal with various emergencies so as to secure the public safety, and the orders to be made by the Commissioner under those sections are mainly of a strictly temporary character."

This is what the section means. Not only it has to be used against a body of persons or a gang or persons who are members of a gang or a body of persons, but it has to be used only in cases of emergency and that the orders to be made under this sections are to be in the nature of a strictly temporary character. Now, what do we find in the present Bill ? The present Bill gives general powers to be used by the executive authority, namely, the Commissioner of Police, in ordinary times. That is a complete departure from the provisions of section 27 in the original Act.

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Secondly, the order to be made by the Commissioner of Police under the powers vested in him in this Bill will not be of a temporary character and will not be made use of only in emergencies. They are of a permanent character and will be made use of in ordinary times for ordinary purposes also. Therefore, it is not as the Honourable Minister tried to point out that this Bill does nothing more than merely legalise in the Act itself what the High Court of Bombay laid down in *Yar Mahomed's* case. It goes much further and it makes a complete departure from the law as is contained in section 27 of the City of Bombay Police Act and, particularly in these two respects, it is a complete departure.

Now, if this is a departure in these two important respects, we would like to know what the urgency of the matter is. This section had stood the test for the last 36 years and no occasion arose for getting it amended. Even in 1934 when the High Court of Bombay decided in that revisional application that the section was of limited application, no efforts were made to come before the Legislature for getting the section amended so as to give the general wide powers to be used in ordinary times and the orders to be made to be not of a temporary character by the earlier Government or even by the present Government. Taking advantage of the present situation created by the riot, Government thought that it would be better to come before the Legislature and to get these powers. Had the circumstances been different the matter would have come before the Legislature in the ordinary course and even a motion to a select committee would not have been opposed. When notices of a large number of amendments are given, it is but proper and fair that all the amendments should be discussed thoroughly and carefully by a committee instead of doing so in the House when it is not possible for other members to follow exactly what the significance of the amendments would be. I do not understand why the motion to refer this matter to the Select Committee was opposed in the Legislative Assembly.

However, apart from that, these are the two important matters in which the Bill seeks to give very wide powers to the Police Commissioner. Now the question is: Are these powers very essential to be given to the Police Commissioner for the safety of the person and property of the citizens of Bombay? Are the powers now possessed by the Government and the police, as contained in the Criminal Procedure Code and under the City of Bombay Police Act quite inadequate to meet the situation? If that is so, certainly other powers would be necessary. Now what is the case that has been made out by the Honourable the Home Minister on this ground. He has merely said that this power is being used in this way under this section for the last 36 years and that therefore Government wanted it. If a power was being used by an authority without that power being vested in it, then it was clearly an abuse or an excess of the exercise of powers and it would not be then right on the part of Government or on the part of that authority to come forward

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and say "I have been exercising this power for a very long time and now it has been held that I was not entitled to do so, therefore I ask for it." If you allow such things to be done, the result would be that the very assurance which the Honourable the Home Minister has given on the floor of this House and on the floor of the House of the Legislative Assembly that this power will not be used against political workers, against the trade union workers, against workers who are doing social work or the work in the labour movement, will perhaps remain a dead letter and the Commissioner of Police may misuse these powers against such persons also and then come forward, when his decision is challenged by the High Court or by any other competent authority, and say: "I have been exercising these powers for a very long time, so legalise them." That is the method in which the present Bill is sought to be placed before us.

The principal point is, when invested with these powers, will the Commissioner of Police be in a better position to protect the person and property of the citizens? We find that during the 10 riots which took place since 1929 in the City of Bombay, in 9 he thought that he was possessed of the power which is sought to be given by this Bill. Was he in a position to check these riots more effectively? The answer is "No". Then again, in the recent riot he thought that he was not vested with that power and therefore did not exercise that power, then was he prevented or unable to check the riots because he was unable to use these powers? No. What does this show? It shows clearly that the Police Commissioner being vested with the power sought to be given by the Bill, will neither be in a better or worse position with or without such powers. No doubt, he would use these powers in ordinary cases against persons who, according to him, are dangerous, but in doing so certainly he would be taking away and depriving that person of the legitimate rights of being brought before the court and tried in a regular manner before the judicial tribunal and his liability of being either removed from the City of Bombay or of being sent to jail is proved to the satisfaction of the judicial mind. That he will be denied. I therefore think that no case has been made out for giving this power to the Police Commissioner.

Now, it is said by the Honourable the Home Minister that in this Bill provision has been made for safeguards and checks on the exercise of this power and that we have done strictly in accordance with what the High Court has laid down. Not only that, but we have gone to some extent much further than what the High Court has laid down. Is the Bill merely intended to give effect to what the High Court had decided in the case of Yar Mahomed? If it be so, it was not necessary, because the judgment of that high authority was there and would be binding on all those concerned. It was not necessary to come before the Legislature in a hurry simply to get legalised the procedure, practice and the conditions laid down by the judgment of the High Court.

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Then again what are those safeguards and checks ? The first safeguard is that the person concerned will be informed previously of the information against him and will be given an opportunity to produce witnesses. Of course it is a good thing and that he will get, if he was not given beforehand this opportunity of refuting the allegations against him. He will get it and it is a good thing, but this was what was intended even before by the Act. No person should be condemned unless he is given an opportunity of knowing exactly what the allegation against him is and of giving such explanation as he has to give. That is the principle of natural justice and the Police Commissioner was required under the original section 27 to give this opportunity and if that was not being done it was manifestly wrong. Therefore, if the Police Commissioner is directed now by this Bill to do a thing which he was required to do according to broad principles of natural justice, it cannot be said to be a safeguard or to be a check on the abuse of the powers.

Secondly, it is said that this power will be exercised only when the witnesses are not willing to come before the court to give evidence. Now, we find in cases against such persons, who are somewhat dangerous to society that the witnesses will never be willing to come before the Court. Even in ordinary cases we find that witnesses are not so very willing to come before the court and undergo the trouble of being cross-examined. If you ask a person whether he is willing to give evidence as a witness in a case he will refuse to do so. Very rarely a person will, of his own accord, come forward and say that he is quite ready and willing to give evidence and more so in cases against persons of this character. Therefore it will not be very difficult to find that the witnesses are not willing to come before the Court to give evidence, because they are afraid of any danger to their person and property.

Then the checks or safeguards are that the person will be entitled to appear before the Commissioner and be allowed to be assisted by a legal practitioner, that he will be entitled to give a written statement, that the same will form part of the record and that he will be entitled to bring before the Commissioner witnesses and such witnesses may be examined by the Commissioner.

These are undoubtedly good things that have been done and this will undoubtedly operate as a check on the abuse or the misuse of the powers of the Police Commissioner.

Then there is said to be the right of appeal to Government. This right of appeal to Government, no doubt, will act as a check and ensure a proper and due exercise of his powers by the Police Commissioner, but, at the same time, it takes away to some extent in some cases and completely in other cases, the right of the accused when his case is brought before a court of law to ask the court to inquire into and decide upon the legality or otherwise of the order made against him. That has been completely taken away except in those particular cases that are mentioned in sub-clause (7) of clause 2 of the Bill. Further in cases

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of emergency, in cases where an emergency is declared by Government, even these safeguards are done away with. In ordinary cases only these safeguards will apply. Now, the original section was to be used in cases of emergency and the order to be made was of a temporary character. The present Bill gives permanent power to the Police Commissioner to make orders of the type described in the section and then the safeguards are provided only in those cases. So far as the emergency cases are concerned, for which the original section was intended, it will be noticed that there is no safeguard of any kind because it is provided in this very Bill that there will be no prior intimation to be given to the person concerned against whom an order is to be made in emergency. Similarly, he will have no right to appear before the Commissioner and to explain his case. He will have no right to bring before the Commissioner his witnesses. He will not be entitled to put in a written statement, he will not be entitled also to have his case brought before a court, where a question as to the validity of the order could be raised.

The only opportunity given to him is of a right of appeal to the Provincial Government within 10 days. So far as, therefore, these provisions are concerned they go much farther than what the High Court had laid down in the judgment of Yarmahomed's case.

Now, I would merely read only a short passage from the judgment of the High Court which has got great bearing on the question before this House. This is what the learned Chief Justice has to say on the powers of the courts :

"It is argued by the Advocate General in the first place that under section 27 it is the Commissioner, and the Commissioner alone, who is to be satisfied as to the matters referred to in the section and thereupon he makes an order under the section and no Court can question such order. It may be conceded that an order made under section 27 is an order made by an executive officer, and is not subject to appeal or revision in any Court. But it is a very different matter to affirm that when an attempt is made to impose a penalty for breach of an order made under the section, the validity of the order cannot be impeached. The learned Advocate General admitted that the logical consequence of his argument must be that the Commissioner can banish anyone from Bombay, without a particle of evidence against him, without preferring any charge and without hearing him, merely by affirming that the Commissioner is satisfied that the case falls within section 27."

Then, it is said later on in the course of the judgment of His Lordship, the Chief Justice :

"The Legislature has provided in Chapter VIII of the Criminal Procedure Code methods by which a dangerous character, who has not committed any actual offence, may be controlled, and it is open to the Commissioner of Police to initiate proceedings under that Chapter. We need hardly point out that power to banish a person who has committed no offence from the city where he has been residing for many years, to break up his home and destroy his business, without any trial and solely at the discretion of an executive officer is one which no civilised legislature is to grant. In our opinion, it is a well established principle that where an Act of Parliament confers upon an authority power to make an order in certain conditions, and it is sought to impose a penalty for breach of an order made by the authority, it is incumbent upon the Court hearing the charge to consider whether the order was properly made and to be satisfied on two points : first, that the authority has acted reasonably and not capriciously or oppressively ; and, secondly, that the conditions imposed by the statute have been observed."

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This is what the Honourable the High Court had laid down and this was quite sufficient. The Bill, I submit, goes much further than what the High Court had laid down, particularly in ordinary times. Even in the case of the emergency the Bill practically gives a go-by to what the Honourable the Chief Justice had laid down in this judgment. There need be no evidence whatsoever, there need be no enquiry, there need be no opportunity to the person and no court shall be entitled to question the legality or otherwise of the order made in this behalf. So,

3-30 p.m. to that extent, this Bill practically completely defeats what the Chief Justice has laid down

in his judgment.

Sir, in addition to this, the Bill, to my mind, as drafted, and as read for the third time and passed by the Legislative Assembly, is somewhat ambiguous and is also in some respects defective. Of course it may be the view of the Honourable the Home Minister that in this section it was intended to set apart clearly the provisions of that part of the power to be exercised by the Commissioner after the declaration of the emergency from the powers to be used in ordinary cases by the Police Commissioner. I think that was the original intention of the honourable mover of the amendment which was accepted by the Government. But his idea was to have it as a separate section 27A, and in that case of course the repetition of those very provisions or similar provisions as are contained in section 27 would be quite consistent and would be even necessary. But when you insert in the middle of a section certain provisions, and at a later stage you find also in the same section the identical provisions with little changes here and there, then certainly, with due deference to the Home Minister I submit that there should be in the same section two identical provisions, exactly with the same wording, the same phraseology, and the same language. We should try, as far as possible, to put them together and make them applicable to all cases. It is not so difficult to read and see what particular provisions of the section will apply to cases of emergency and what provisions will not apply.

Then the Bill is defective in other respects also. I might point out one instance only. It is this: the original section was intended to be applied only against a gang or against a body of persons. Naturally therefore, when an order was to be passed against a body of persons or gang, how could it be made known to that body of persons or to the gang? The best remedy would be by beat of drum. But when you actually remove the gang and the body of persons from the section and make it applicable exclusively to individuals, will it be consistent and proper to say that the notice to be given to him should be by beat of drum? Even the original notice or information to be given to him before an order is made is to be given to him in writing, containing the details, but the final order is to be communicated to him by beat of drum! I do not say that it was intentional, but this little discrepancy, to my mind, has been left in the Bill unnoticed.

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I think, Sir, it is necessary to consider all these aspects, not from the point of view that the amendments have come from the Opposition or from some member of the Opposition. They should be considered in their proper perspective, in order that the Bill may be a fair one and it may not lead to difficulty and inconsistency. I am certainly obliged to the Home Minister for accepting one of my amendments at least, and that is with reference to section 128. I knew that the intention of subsection (2C), which says that the order passed under this clause would be ineffective after the proclamation has ceased to have effect, is that the person will be entitled to come within the city after the period is over. It was stated very often that he was to get only a month's holiday out of the city, and therefore he was entitled to come back to the city. But the wording of section 128 is so general that his return to Bombay even after the proclamation of emergency has ceased to have effect would be an offence within the meaning of section 128, and that ought to be made clear. It might be that the effect of the provision as it stands would be the same. However, it is necessary to make it clear, because it is not a question of interpretation by judges, but it is for the man who is deported to know, or for those who have to advise him to know, as to whether he is entitled to come back within the city or is not entitled to come back within the city, after the order has ceased to be effective. From that point of view, I am much obliged to the Home Minister for accepting my amendment. I do hope he will also consider the other amendments in their proper spirit. I do feel, however, that the Bill goes much further and gives wider powers to the executive authority, which are not necessary and which are not justifiable. With these observations, I resume my seat.

Sir CURRIMBHOY EBRAHIM (Bombay City *cum* Bombay Suburban District): Sir, I oppose this Bill, on the basis that very wide powers are being given to the Police Commissioner. This Act has been now in existence for the last 36 years, and the present Government has brought up an amendment which gives still wider powers. I fail to understand why, in spite of the present Act, the police from time to time have failed to arrest the *pucca mavalis* as stated by the Honourable Minister. I know I will be one of the cursed persons, as my honourable friend Mr. Karanjia said, by opposing the Bill, but at the same time I am stating all that I have to say from my experience, as I was acting as President of the Muslim Peace and Relief Committee. As far as my information goes, and I should really admit that it is probably correct, the fact is this, that the Police Commissioner has to rely upon the information that he receives from the Superintendent, the Superintendent has to rely on the information that he receives from the Inspector, and the Inspector has to rely on the Sub-Inspector and the Sub-Inspector has to rely on the information of the Police Sergeant or Police Constable, and the Police Constable very many times has to rely upon the information of the Havildar and the other policemen.

[Sir Currimbhoy Ebrahim]

Now, so far as the policemen are concerned, they are most unprotected, and if I remember correctly, when I had the pleasure of discussing this matter with the members of my party in the Committee Room with the Honourable Minister, he said that even the restaurant keepers are being threatened and even those people are afraid to come forward and give evidence. What does that show? It shows that the restaurant keepers also are not being given proper protection. They are afraid of these *goondas* or *mavalis* or whatever you may call them, and that is a fact. When the policemen are taking their rounds at 12 or 1 or 2 o'clock at night with their lathis, they are unprotected. With all my respect to the authorities, I am sure the Honourable Minister will realise in his heart of hearts that even the policeman is at the mercy of the *goondas* and *mavalis*. He has to be. Any respectable citizen of Bombay, any member of this House or of the Lower House will surely be in favour of these *goondas* and *mavalis* being arrested and taken out of this place. We want this city to be a city of peace and not one of disturbance. We have suffered enough. (*Hear, hear.*) It is all right to say "hear, hear". But it is felt several times, you have always felt that the riots have been jutting out from some root or other. It has been the case this time unfortunately that two or three people were gambling, as I understand from the newspapers, that one of them happened to lose some money to the other, and he went and stabbed him. That was turned into a communal riot, and we saw that there was a communal riot. Now, I do not know and I am not aware of it, but I am sure the Government may have made their own enquiries and they might be very well aware of their own responsibilities. But the fact remains that there must be a gang, which must be carrying on this sort of gambling. That has also been the case in the past. Past experience has taught us that there were several gambling dens, owned by rival parties, and one party which perhaps was not making enough money would inform the police that the other party has a gambling den at a particular place, and that is how the police used to raid that particular place. Otherwise, it used to be absolutely impossible to catch hold of these gamblers, and that is being done everywhere in other parts of the world. Under the circumstances, what I would request is that the policemen should be well protected. They must be given arms to face these *mavalis* and *goondas*. This legislation, giving very large powers to the Police Commissioner, I am afraid, is not going to solve your difficulties. On the contrary, the policemen will be taking protection from the *mavalis*. They have to take their rounds in gullies. They do not know when they would be stopped, and naturally they have to be afraid, because they have not got a revolver or such kind of weapon with them. The *mavalis* may stab a policeman, go from one gully to the other and then to the third and disappear. The policemen are also afraid, and I am sure the Minister must be very well realising the difficulties of the policemen too. I do not mean to say that the authorities are in favour of the *mavalis* or that the policemen are helping them. That is not my statement.

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My statement is that the policemen have got no weapons to defend themselves. A lathi is of no use. A lathi can play its part when a fight is going on, but when a *marali* comes along and attacks from behind, the policeman cannot be safe at all. I have often seen at night time while returning from the Taj two policemen walking together, I suppose for purposes of safety. I can quite understand even the policemen feeling nervous under such circumstances.

Sir, there is no question about our trusting the policeman. As my honourable friend Mr. Karanjia says, we do trust the Police Commissioner and we do trust the Government, who are making all possible efforts to bring peace to the city. From the explanation given by the Honourable Minister I quite realise that what he wishes to do is to put an end to these riots. Of course, this time the Government. Of course, this time the Government quickly got the situation under control, because of the fact that it was not a proper communal riot. If it had been a communal riot exactly in the way I mean, I am sure the Government would have taken much longer time to put an end to it. This time, as I understand it and as my information goes, the trouble started because of two parties gambling and one of the parties losing, and from that it developed into a communal riot, and that is how probably some of the other riots started. I see the Honourable Minister is smiling and he is probably aware of everything.

Then as regards the point that no one comes to give evidence in case of extortion or of the prosecution witnesses being threatened, or something of that sort, I ask why it is so. It is so, because the police do not afford enough protection to them. Is not that the reason? May I know from the Government if that is not so? If the police are sufficiently strong, I do not understand why one should not come forward and say that the particular *marali* committed a particular offence, and not that because he was threatened he would not like the police to take any steps. The police themselves are afraid of the *maralis*; with all my respect for the Honourable Minister I must say that. I have worked in those circles which probably very few people have had the opportunity of working in and I might relate to you the experience that might probably brighten up the minds of the Government. If any action is to be taken with the co-operation of the police, I would suggest the Honourable Minister to take the trouble of consulting an ordinary policeman and the Police Commissioner. I would suggest to him to take an ordinary policeman into his confidence and ask him what his experience about these *maralis* is, and what are his reasons for being afraid of the *maralis*. He might also ask him why he is afraid of going into Madanpura and Kamatipura or whatever the *pura* may be; I am sure the Honourable Minister will then know the difficulty of the policeman. I know that the *maralis* help the policemen in their rounds. I know that the policemen are not protected and therefore I do not blame them. I therefore request

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Government to take such action as will make the policemen well protected, by giving them certain weapons. You may bring an amending Act. In a way probably that may be helpful to maintain the peace of the City of Bombay. I would always be in favour of such an Act. But these impractical things do not convince me. They do not satisfy me at all, because the facts that I have learned during the last few years have always been preying upon my mind. I am not opposing this Bill as a member of the Opposition. I do want peace in the City of Bombay as everybody wants.

Sir, with this request to the Honourable Minister, I resume my seat.

Professor SOHRAB R. DAVAR (Bombay City cum Bombay Suburban District): Sir, my good friend Mr. Karanjia has given us a very graphic account of what these stabbing riots have been and has thereby tried to convince us that an emergent measure of some sort or other was necessary. I would tell him that this graphic account was hardly necessary and, with great respect to him, I might say that it was a waste of the time of the House because we all know very well and fully realise what these riots have been in the past and how innocent lives—not the goonda lives, mind you—have been lost. If the goondas' lives were lost, perhaps, we would not be so sorry about it because they chose to fight and they lost their lives. But it is the innocent that suffer in cases like these.

Sir, as far as the principle of the Bill goes, I am in entire agreement with my honourable friend on the opposite side and I must congratulate him, as the public would congratulate him, on his desire to control these events, if that could be done by an Act which, while protecting the innocent people, will, at the same time, bring guilty persons to book. Section 27 of the City of Bombay Police Act has been in existence and in operation for the last 30 years as my honourable friend pointed out. It has worked most satisfactorily. In fact, if I mistake not, my honourable friend the Honourable Mr. Munshi has made free use of section 27 and various other sections in connection with the present riot and he has no doubt succeeded, as any one would have succeeded, in putting down these riots, or in putting down these murders, because this section has stood the test of time. This section, as I said, has been in operation for the last so many years and has been used on numerous occasions. The only regret was that on certain occasion it was not used immediately and much time was unnecessarily lost in connection with these murders. The Honourable Mr. Munshi deserves our congratulations in so far as he immediately took measures without any loss of time and much bloodshed was undoubtedly saved.

When this Bill came into my hands with the Statement of Objects and Reasons in its very innocent form first when it was introduced in the Assembly, I thought the Honourable Minister's objective was just to remove any doubt that could exist in connection with the wording and

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operation of section 27, to remove any chance of anybody going to a court of law and challenging the right of the Commissioner under that section to deport individuals who were not members of a criminal gang. Thus, I thought he wanted to safeguard the future possibility and improve the section. But when I read the Bill which he has formulated I thought—and with great respect to him I think so to-day—that he has gone much further than the original objective that was mentioned in the statement of objects and reasons of the draft Bill. It is very likely that when he was drafting it, or getting this Bill drafted, other items were brought to his notice and, naturally, being very anxious to make this Bill as perfect as possible he introduced many of these clauses which perhaps had not been in his mind in the beginning. The emergency section was introduced only in the Assembly by an amendment of my honourable friend Dr. Ambedkar. This Bill is now divided into two divisions, one “emergency” and the other “normal”. The question has always been whether section 27 of the City of Bombay Police Act was meant to be used under normal circumstances. In fact, when it was first introduced into our law it was meant to be only an emergency measure. But for some reason or other the Police Commissioner has made use of it on normal occasions as well, so I understand, with good intentions. The section if it has to be in the Police Act as it stands must have a number of safeguards as far as its application in the normal times is concerned. My honourable friend the Honourable Minister has allowed it to remain and at the same time has introduced an emergency section. I do not understand what the meaning of having these two divisions in the form in which it is presented to us is. It must either be an emergency measure and no more or it must be a permanent measure. If it has got to be a permanent measure the justification for its permanence must be given. The knifing business is done generally in times of riots while other ordinary quarrels which in old days took the shape of fights with sticks have now taken the shape of fights with knives, but that is a normal circumstance; that is not an emergent circumstance. Murders will happen; they do happen every day not only in the City of Bombay but almost in every civilized city in the world. If you go to Paris, there you will find that by *Apaches* or *goondas* of Paris people are murdered by knives every day; so it is in the East end of London.

Mr. B. N. KARANJIA : But innocent people are not killed. There the murders are from certain motives.

Professor SOHRAB R. DAVAR : My honourable friend Mr. Karanjia sits in the honorary magistrate's court and he perhaps imagines that it is the principal court of the country. But it is not so. I have practised in the sessions court; I have defended as well as prosecuted cases of murders in the sessions court and also I have conducted numerous cases of fighting with knives, which were between *goondas* and ordinary people of a certain class. If you take that as an index for introducing a drastic

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legislation applying for all times and give absolute powers in the hands of the Commissioner to remove people, I am afraid you are going too far. You cannot deny that people who love liberty are rather afraid about it, because we know what is the police. The police is the same all over the world. It is a most concentrated type of autocracy, a limb of the law as they call it. But it is much worse; it is a body through which law can be misused as well as used for good purposes and the police as a force are not men of exceptional honour or like saints. Therefore, before you put a permanent legislation on the statute book and allow the Police Commissioner to deport a man and that deportation lasts for two years from this town on the ground that he suspects the man to be a *marali* on the evidence which cannot be disclosed and he is not allowed to disclose it lest those witnesses may be stabbed—this is an argument in favour of the section which to me as a lover of liberty does not appeal—you must take into consideration all the pros and cons of the situation. If it was an emergent measure to deal with a riot between communities or factions and the Police Commissioner proclaims and catches all those undesirable characters and deports them, nobody would have a quarrel about it. That is a correct thing to be done. But to put this as a permanent measure is rather highly objectionable to those who love liberty and justice. My honourable friend Mr. Munshi has practised in the highest tribunal of our country and knows what the claims of liberty and justice are. I quite understand that he is now in an executive position and has perhaps got to look at it from a different angle of vision, and it might be that he is trying to see how these things would be stopped. Perhaps any one of us in his place would have been forced or lured into that position that he is occupying today. But apart from that the Government has introduced this legislation both for an emergency as well as for normal times, and I do not understand why it is left to the discretion of the Commissioner to examine the witnesses brought forward by the accused. That is not right. The Police Commissioner may even say “No. I am not going to examine any witnesses”. Unless we read “may” as “shall”, that gives him a discretion. I daresay that the Honourable Minister may change even that and remove “may” and put “shall” in order to make it compulsory for the Commissioner of Police to hear witnesses. If he is not, I would like to know why he does not want the Police Commissioner to hear witnesses when he says that he has incorporated this safeguard, namely, that a person who is brought before him and who has got to appear with an advocate or a competent lawyer may produce witnesses and the Commissioner may hear them. Why “may”? Is not a court of law forced to hear witnesses when it allows an accused person to plead his case personally or through a lawyer? Why are you departing from that elementary principle of justice? Mind you, if you are doing it merely for an emergency, I may not have a quarrel. The Honourable Mr. Munshi will please hear me.

The Honourable Mr. K. M. MUNSHI : I am hearing you.

Professor SOHRAB R. DAVAR : You may give him that power with due safeguards, because an order passed in an emergency will not remain in force after the emergency expires and the man who is deported may immediately come back. But when an order is to be passed in normal times that will remain in force for two years and if a citizen of Bombay is to be outside of Bombay for two years I do not know why you should deprive him of the opportunity of getting his witnesses examined and proving his innocence. Does the Honourable Minister want that witnesses should not be compulsorily heard ? And even if he were to

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say that witnesses should be heard compulsorily, I would go further and ask: Supposing I or he were asked to defend a person in that position and we were to appear as an advocate or as a barrister before the Police Commissioner, I would naturally like first to know what is the charge against my client and what is the evidence against him, and then I would naturally be in a position to advise my client as to what witnesses should be brought and laid before the Court ; otherwise I would be only groping in the dark. I would be only striking in air. Therefore, I submit that this right of witnesses, even if made compulsory, would not take the case much further. Now, my honourable friend has promised here as well as in the Lower House that he will see, that the Commissioner will not use these powers against political and others. Well, there are two answers to that. One is that which my honourable friend Mr. Deodhekar has already given, namely, that the Honourable Mr. Munshi, however much we may like him, may not be always there and some other Minister may be there and then perhaps this undertaking of his may not be kept. Why not introduce this in the Act itself by clearly stating that these powers will not be used against purely political offenders ? Of course, if it is a *goonda* you can distinguish it in a section and as a lawyer you know how to do so. Your Legal Remembrancer will immediately give you one or two lines by which this may be put into the Act and thus the chances of a person who is politically inconvenient to a party in power being got rid of for one or two years in a safe place, though he may be otherwise quite an honourable and a good fellow, may be eliminated, and I am sure that this appeal on my part will go more near his heart than that of anybody else, because nobody has suffered more perhaps than my honourable friend Mr. Munshi has suffered for political reasons and for his political convictions, just like many of his other friends. Therefore, I say, supposing tomorrow another Government comes into power, a Socialist Government comes into power,—God forbid them coming into power— or a Communist Government comes into power, they will simply point out to my honourable friend Mr. Munshi and say : “ You democrats, you are talking all sorts of things, but this is an Act asked by your own Minister, Minister of Democracy ”. We are all democrats here ; I think there is no one here who is not a democrat, so that I submit that this is also a point which should be very very carefully considered, and I trust that some concession there—I am not asking for concession, I have only

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asked for justice, for fairplay to all citizens of Bombay—some concession or some consideration, if I were to use the correct word, will be given. Because as the maxim of law goes—or rather it is a maxim of equity so well-known to my honourable friend Mr. Munshi—let 10 guilty men escape, but not one single innocent person suffer for a single day. That is the principle of equity and justice which we are taught as lawyers and therefore, I submit, if that is the principle which is enunciated by the courts and juries all over the world, my honourable friend, as one of the jurists himself, will not deny it to a citizen of Bombay. For goodness' sake, do not think that I am pleading for the *goondas*. I am with you. I say, if that could be done, we would be very pleased if all the *goondas* and the criminals can be put in one ship and taken to the high sea and sent away to the next, perhaps, a better world, where they will be looked after. That is not the point. What worries me is the Police Commissioner, or, when you talk of Police Commissioner, it means the *pattawalla* on the road making a report, or the detective who goes and tells his master, the Police Commissioner, who only sits in his office. He only whispers in the ears, because some *panwalla* or *bidiwalla* has not given him the necessary tip. This is the biggest *goonda* and he has been causing all the stabbing affrays in this locality. This will be the evidence. If my honourable friend Mr. Munshi were practising, he would have been called upon to produce evidence for his client. He will ask "what is your evidence" to the Police Commissioner, as he will naturally ask, and as he has asked hundreds of times and the answer would be: "Under the section, I am not here disclosing evidence; disclosing will mean the risk of life of the informant" and we know who the police informers are. The riff-raff of the country are informers. I know of cases of gambling, in the High Court as well as in the Police Courts, and I have found and I have conclusively proved in the High Court, before our present Chief Justice that there was one informant called Chand, who was the cause of getting a large number of innocent persons convicted for gambling. That was conclusively proved in one case in the appeal court and the appeal was allowed. So I say there are informants who are self-interested because they get a part of fine that is imposed. In this case it might be either a present from the police or it might be the spite or rancour and that may bring in innocent persons. He may be very poor, he may have a *bidi* or *pan* shop, but he may be the best of citizens, very honest, very straightforward, very humble; still he may be deported and one black spot on his name, practically on his forehead, would condemn him for all the rest of his life among the people of Bombay. This is what I am afraid of.

Therefore, I would like to make two suggestions. One of them is for the consideration of the Honourable Minister opposite,—he is a very very old friend and he will at least realise that what I am saying is because I believe in it, and he knows me too well—whether some saving clause cannot be inserted to prevent its being made use of against politicals,

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not in your presence—I am sure that will never happen—but in the future. The second suggestion, which perhaps he will not accept, but still I would make the same, would be : Let us allow this Bill that he has now introduced to be passed for a period of two years and let us see how it works, how all these safeguards and powers operate and also see how the police, that is, the executive in whose hands the working of the Act will be, exercise these powers. If they know that after two years this Act will have to expire and a new Act in the same or amended form will come in, they would be most cautious in using the same. I am not quarrelling with the emergency side of the Bill at all. The trouble is that in normal times also you will get this Act operating. You will be here for two years vigilantly watching—

The Honourable Mr. K. M. MUNSHI : Only up to 12th of May !

Professor SOHRAB R. DAVAR : My good friend, think of the innocent people of Bombay in your absence. If you are going away on the 12th of May and somebody else may come in your place,—perhaps one of the puppet Ministers,—do you want this thing to operate ? I am quite prepared to take your undertaking for 10 years to come, provided you are guaranteeing to be here for all that time, but it is not going to be so, according to your own admission. So, I would really ask my honourable friend to see that these two or at least one of the two suggestions is accepted.

That is all, Sir.

Mr. B. N. KARANJIA : May I know, Sir, what new things Professor Davar has said to the House ? He said that I wasted the time of the House.

The Honourable the PRESIDENT : I do not think any of the honourable members have wasted the time of the House.

Professor SOHRAB R. DAVAR : I am sorry that I have given cause to my honourable friend to be angry.

*Dr. P. G. SOLANKI : Sir, on this Bill various people have spoken. Businessmen have spoken, professors have spoken, a doctor has spoken and the lawyers have spoken. They have given their own views. I, as a layman, as a citizen of Bombay, who has lived amongst the people who are much criticised here and maligned, such people about whom there are fears in the minds of many of the citizens, have come forward here today to congratulate the Honourable the Home Minister for being bold enough to bring such a legislation, though late, but promptly. It has been said here that because the riot broke out and because the

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Honourable Mr. Munshi at once woke up from his slumber, and he did not go to sleep as other Home Members did in the past, he should be congratulated. But I do say that it was highly creditable for the Minister and for his constitution. I do not know whether it could be borne out by his own statement, but I do believe that he was not keeping good health at that time, yet, he, in the dead of night, was going from place to place to restore order and peace so that the fire may not be a blaze throughout the City of Bombay. It is for that act of daring and boldness that I congratulate him.

Sir, this Bill has been divided. As it has been said by my honourable friend Mr. Joshi the emergency clause as well as the permanent normal clause both are there and I do say, Sir, that the Home Minister has done it wisely. I do know very well that the emergency clause was introduced after great debate and discussion, by my honourable friend in the Lower House, Dr. Ambedkar. Yet there was the readiness with which the Honourable the Home Minister came forward to accept his amendment, which shows that he is so very careful and ever eager to safeguard the interests of the innocent citizens of the City of Bombay.

Sir, I ask a question to the honourable members of this House, whether they are here for preserving the civil liberty and safety of the law-abiding and innocent citizens, or they are here to fight for the criminals, for the *goondas*, who are the root cause of the murders of the innocent people in this city. The history of the riots has been given here. I may tell this House that I have seen the riot of 1893 with my own eyes—people being stabbed and speared and killed. That riot lasted for one year—I mean the effects of it. That was the worst riot I saw, and the origin of it came from Kathiawar, Veraval, Prabhaspattan, and that was the imaginary cause of the communal or religious riot. After that, the 9 or 10 riots which occurred during the last 9 or 10 years had their local causes. Some arose from the Burma Shell Company's servants, some arose from strikes, and the last one arose only from card gambling. I am sure if it has not been curbed at once, it would have been the worst riot in the history of Bombay city. Look at the rapidity with which it spreads and the velocity and the vengeance with which people from both sides become blood-thirsty. I cannot understand the madness which prevails, the passion which takes possession of these people in the streets. I myself have personally asked some of the people who take part in these riots and attack people about it. I have personally appealed to them and asked them why they did it. They say "What it is, we cannot understand. The moment we see these incidents occurring, we are inclined to fall in line and take part in the fight or scuffle." They do not say that it is a wise thing that they do. They do feel it. Yet the element of excitement is there. There is the hidden land, which has not yet been discovered. My honourable friends Sir Currimbhoy and Mr. Joshi say that in spite of section 27 being there the police do not take any special precautions to suppress the riots.

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Bombay is such a big city. There are so many nooks and corners and alleys and streets and gullies, where these *mavalis* and *goondas* escape and hide themselves. Not only they escape and hide themselves, but there are some very well-to-do people who give them shelter. There are these well-to-do people to whom perhaps a reference was made by Sir Currimbhoy Ebrahim. He talked about there being two parties having control of gambling dens. It seems Sir Currimbhoy knows about it, and if the Police Commissioner were to go to Sir Currimbhoy, he could locate some of these persons, who could be at once deported.

My honourable friend Mr Karanjia said that during the riots he was the only man who was taking an active part in the measures to deal with the riots. If there is anybody who has taken part in the thickest of the riots, it is I. To Madanpura, Lamington Road and other Mahomedan localities where a Hindu would be afraid of going during the riots I have gone (*hear, hear*) as an honorary magistrate. Here I must say that we honorary magistrates, even at great risk and under handicaps, are doing our duty. The honourable member Sir Currimbhoy showed his solicitude for the poor police constables and the police officers. He said that they should be given rifles and pistols. But what about the Presidency Magistrates themselves that are honorary? When they ask the authorities to give them these arms, what is the reply? They say "You are given the aid of the military and the police go with you, and there is no risk of your being molested or shot down." But if any honorary magistrate is shot down on the spot, what is the police to lose, or what will Government lose? The relatives of the honorary magistrate will lose. So, this is one of my suggestions. Then the honourable member Sir Currimbhoy said that it is to the credit of the police constables that for hours and hours and days together they have withstood hunger and sleep to perform their duties, the most onerous and the most noble duty of maintaining peace and order in the city. But what about the honorary Presidency Magistrates? They do not get even a cup of tea; they do not get even a decent chair to sit. They are penalised, and I do appeal to the Honourable the Home Minister that this sort of penalty should not be inflicted upon the volunteers who come forward to render service without any expectation of reward. These honorary magistrates and others who work along with the police amongst the ruffians and *mavalis* do know the pulse of the people. There were Peace Committees all throughout these riots and in the Peace Committees there were certain discussions which were taking place. There were members from both the sides, Hindus and Moslems, and they used to take certain hints and what used to happen? The worst pucca *mavalis* and *goondas* who were arrested by the Police were immediately let loose on bail of thousands of rupees. If these were the riff-raffs, as Professor Davar thinks, riff-raffs would not be able to be such champions—

Professor SOHRAB R. DAVAR: Sir, the honourable member has entirely misunderstood me. I said that about informants.

Dr. P. G. SOLANKI : I am coming to that ; there are such people as the police informants and at the same time there are also highly respected citizens, as Professor Davar, who have got their own fears from their neighbours and who would not disclose the names of the persons who would molest—

Professor SOHRAB R. DAVAR : Sir, I am not one of those.

Dr. P. G. SOLANKI : Are you not one of the innocent persons ? Are you not afraid of losing your life ?

Professor SOHRAB R. DAVAR : Not at all.

Dr. P. G. SOLANKI : Bravo. I wish you were one of the victims of the riots.

Professor SOHRAB DAVAR : So very generous of you !

Dr. P. G. SOLANKI : Sir, it is very good to talk all these things in this hall. But let us hear the fears and the difficulties of the honest workers who are starting for their daily avocation early in the morning and who are stabbed by the *mavalis* at the corner of a *mohulla*. That is what happens in the riots. In so many riots it did happen and the police were at a loss to find out any remedy. They could not do that. To the credit of the police I must say that they did their best to protect the innocent people but as the force of the police is limited and as the powers of the Commissioner of Police are limited in that respect as he has not at his disposal a large force of police, Government is compelled to invite the help of the military from outside. In the past Councils we used to hear the Congress members and the others running down the bureaucratic Government for asking the aid of the police, for engaging additional police, for calling military and increasing the expenses, but I am very glad that the Honourable Minister Mr. Munshi has seen it necessary that the police ought to be on the spot, military ought to be on the spot. Really speaking they are important factors in suppressing the most formidable riots which have happened or which may happen.

Sir, there is still a fear lurking in the minds of the law-abiding citizens of Bombay. They say that this is a phase which subsided because of the prompt actions of the Honourable the Home Minister ; the police will go, the military will be removed and then a day will come when some of the *goondas* will try to play the same trick again. Unfortunately as Bombay has been in the grip of plague, cholera and such other epidemics, in the same way Bombay is caught possession of by the *goondas*, the pucca *mavalis* as the Honourable Minister has said. What is the meaning of pucca *mavalis* ! They are those whose tendencies are criminal, and who are always bent upon doing mischief and watching opportunities when they can at once jump out of their hidden or secret place and take a leading part in the riot and loot the mob and shops and houses of rich

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as well as of poor people. I do realise the difficulties of my honourable friend Mr. Karanjia when he related his woeful tale of losing lakhs and lakhs of rupees in his business, in his big building at the Jackaria Musjid. That building used to fetch him thousands of rupees a month. Now the position is this; the big people who were occupying that building and who were paying him rupees four hundred or five hundred have left the place and therefore he is not able to get even Rs. 40 or 50 a month. Why? Because of the fear of the *goondas* and the *maralis* who would molest the respectable citizens, I mean the Multanis and the *Sowkars* who used to sit there as bankers and silk merchants. They all came in a batch as if deported from the original place where they were doing business and they came near Dhobi Talao and Princess Street and they are doing business, though not to that extent, but with safety, tranquillity and peace of mind. Sir, these millionaires were left to the mercy of these *goondas* and that place was such a place which was known as Panipat, where people would be killed as lambs are killed by butchers without any mercy and passion. Under those circumstances was it not right, and under the present circumstances is it not right that the Honourable the Home Minister has come forward with his laudable piece of legislation to at least protect the civil liberties of the innocent citizens, law-abiding citizens, who number lakhs and lakhs and are more than those handful of criminals, the *goondas*, who may be deported? Sir, I was on the Select Committee of the Gambling Bill and the Police Commissioner was asked direct whether he could not handle those *pucca maralis* or *goondas* who are known as gamblers in Bombay. The reply he used to give us was that they are local-born and they cannot touch them. The law does not give them power and that was his helplessness and we said: Why do you not appeal or ask the Government to bring an amendment of the present Act and he said: It is for you people to do it. Luckily we have got our Home Minister who brought it, but I am not clear on one point, and it is this, that the gangs of outsiders will be deported by the Commissioner, but what about the local-born *goondas* and those *maralis* about whom the Home Minister made mention when he talked of the Foras Road? The Foras Road, the Lamington Road and Kamathipura and the surrounding area have been infested by most dangerous gang even at present. They are a standing danger. I know of a gang which consists of five brothers and a widow mother. How has this been managed? Two or three brothers were sent to jail and after they served their jail period some of them were to be deported, but the police could not do it. The result was that one of the brothers who was released had taken an oath that those people who have given information to the police and who have given evidence against them shall not exist in the world when he came back and the result was that within a period of a month or so, the people who were suspected by that gang, one of the men on the pretext of playing cards in a chawl picked up a quarrel and after the quarrel the man was stabbed so mortally that he died.

The Honourable the PRESIDENT: I think this is a convenient point for adjournment for tea and the honourable member can continue after 5.

(The House re-assembled after tea at 5 p.m.)

Dr. P. G. SOLANKI: I was talking about the timidity of the witnesses or their helplessness in coming forward to give evidence against the undesirables or the bad characters, and it is for that very purpose that this Bill has been brought before the Legislature. These witnesses, as I have been telling, belong to two or three classes. One class my honourable friend Professor Davar has classified as riff-raffs of society, who are informants, and on whose information the police, ranging from the constable to the highest officer, namely, the Commissioner, work, which statement I am not prepared to accept. The Commissioner is appointed to such a high post, with such heavy responsibilities for the safety and preserving the order and peace of the city, and the Commissioner is a person who has been appointed for his experience and for his grasp of the question and the situation. The fear lurking in the minds of some of the honourable members of this House as well as members in the lower House is that the police officers including everybody—and now it has come to the turn of the Commissioner too—are all as a rule not to be trusted, and that these people when once they get their power will misuse it. But they forget that the misuse of the power depends upon the individual, who will wield the power and in whose hands the power rests, and a gentleman of the type of Mr. Smith will not misuse it. Mr. Smith, the present Commissioner I say, is a gentleman, because he is gentle in nature, gentle in his culture, gentle in his talk. He is a barrister by profession, and I once talked about him that he is not the proper man to deal with the situation in a city like Bombay when a serious situation arises, because he is so very gentle that he would not think of doing any harm to anybody. But unless we strengthen the hands of such an officer, he will not be able to perform his duties to his satisfaction as well as for the protection of the law-abiding citizens numbering lakhs and lakhs in this city. Sir, at present even there are certain cases going on, certain arrests are being made and certain enquiries are in progress. Yet the witnesses who have seen the things with their own eyes cannot dare to come forward to give evidence, because the moment they come forward they get threats from the *goondas* and undesirables saying "If you are found to utter a word against us, tomorrow you will see that you will die," and they actually carry out the threat. I have mentioned the case in which within two months of the release of the undesirable *goonda* he actually killed the man who had given evidence and information about that gang by going to some of the officers of the police. Under these circumstances, even my honourable friend Professor Davar or any other member of this House, with all his exalted position and status in society, will not dare to speak to the Commissioner openly, if they have any information to give. They will speak privately and make their statements. But if they are asked to appear in a court of law, they will say, "No, we will not come to the court to be exposed"; and in a city

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like Bombay death is hovering over the head of everybody, death in the form of these undesirable *mavalis* and *goondas*, who have been blood-thirsty of each and every human being, whether he be rich or poor, and when the lust and the passion of communal riots reaches its full height in the minds of these people. The moment the Mahomedans see a Hindu they will stab him, and the moment the Hindus see a Mahomedan, they will stab him. Both sides shed blood. I have seen that with my own eyes—men being massacred. I had been actually visiting the disturbed areas of Kamatipura and all those places in the Mahomedan locality in the midst of riots. I have appealed to the Mahomedans and asked them “Baba, why are you doing all these things?” They said “Look here, Saheb. We are not taking the offensive in our hand. It is the Hindus who are attacking us, and they are killing us, and therefore, in retaliation we are doing this.” When we ask the Hindus about it, they say the same thing. You now want to curtail the powers of the police. You do not want to give them sufficient powers. You do not want to have a sufficiently large police and military force. The result is that the riot continues for days together; and look at the amount of loss by way of money, by way of commerce, by way of taxation and the loss of income to the Government. If you take all these into consideration, you will see that the Presidency loses, simply because of the existence of these most undesirable *goondas* who are in the under-world. This under-world of villians and rascals ought to be dug out, and I would appeal to the Honourable the Home Member that he should not rest till he sees that the Commissioner digs these people out from the deepest holes in which they are hiding, and brings them out from the protection of some of the people who are posing to be highly respectable citizens of Bombay, people who go and attend Government functions, people who are looked upon as the best cultured citizens, but who are the real protectors and patrons of these *goondas*. (An Honourable Member: Who are they?) Neither I nor anybody else would like to give out the names, because to give out the names is to make a bargain with death. As it is, we people are licensed to speak anything here, for which we are not held responsible and are not liable for any libellous action. But outside, if you were to speak out, it becomes a question of life and death. However high he may be, the *goonda* has no mercy for him, and I have seen cases where the inmates of the most respectable houses have been kidnapped. Children of the rich people are being kidnapped. American gangster methods are being imitated in Bombay. I remember a case in which a grown up Parsi gentleman near Two Tanks in Bombay, in broad daylight, was kidnapped from his own car by the *mavalis* and was taken in their car, nobody knows where. Up till now there is no trace of that man. In the same way, there were other such cases, and the police could not trace them. How do you expect the police to go after these people who have got their branches so active everywhere? Their telegrams and their wireless reach from here to Delhi and Calcutta and Lucknow and those places, while the local police will try to find out the culprit in the limited area of Bombay city or of Bombay Presidency.

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Sir, I do submit that the local *goondas* and *mavalis* must be handled by the Police Commissioner, and I should be enlightened on the subject by the Honourable the Home Member whether this Bill will enable the Commissioner to at once deport these most undesirable Bombay-born *mavalis* first. If they are deported, I must tell you that the centre of their attraction and their temptation will be removed. Many of these people who come from upcountry have got their friends in these Bombay-born *mavalis*, and these Bombay-born *mavalis* are protected by the *goondas*, and these again are protected by the most well-to-do people, thriving and rolling in riches and moving about in cars. So the Home Member and the Commissioner should both join together and try to find out some means by which they can handle and do away with this evil which has become most unbearable, unbearable from the point of view of the safety of the citizens of this city. This city has gone to the dogs. Its industry is gone. Its mill industry is gone to the dogs. Economic trouble is there, and economic trouble has been one of the causes of these riots and troubles. The other things are also there. Politics? Leave it alone. That is, I should say, another additional sort of suffering on the city. Political workers, social workers, economic workers, all these people are immune from this Bill, as we have been assured by the Home Member. I cannot understand why my friend Professor Davar was trying to get a sort of solemn pledge from the Honourable Mr. Munshi, or that he should give an assurance about the political agitators and others. This solicitude for the political agitator from my friend rather amazes me. All the same, every human being should be given protection as a citizen. I would say, as he says, ten culprits may be let loose, but one innocent person should not be hanged on suspicion. But I do also say that hundreds of innocent men should not be allowed to be massacred by one hooligan. That man should be at once deported and I would go to the extent of even hanging him if that could be done. My honourable friend Mr. Joshi as well as Professor Davar seem to have got hearts which are flowing with human kindness and they may not like it, but I stand for the safety of the innocent and I will not budge an inch to remove this curse and suffering to humanity at large.

Sir, I accept the principle of this Bill and I do once more say that the Home Minister has done great service to the city which the English I.C.S. men were feeling shy to come forward and do by passing such an Act which they could not have done very easily. But here our own countryman has come forward without the fear of being molested. He goes in the city many times alone. I know that. The other day I asked him whether he had any revolver with him but he told me that there was nothing of the sort with him. He depends upon God for his safety. His safety is in the hands of God. But for the safety of the people and for his fellow brethren he has taken this bold step and I do say that this Bill has been properly thrashed out. Amendments have been accepted and it has been presented to us in a most presentable form. I believe the journey of this Bill from this House will be very swift and it will reach

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the other House in great safety without much time being lost on it, because many more Bills are coming, and this Bill which is giving us security, safety, civil liberty and all other such things we must support, and I hope the whole House will pass it unanimously.

Dr. G. S. MAHAJANI (Poona *cum* Satara): Sir, I rise to lend my humble support to the view that has been expressed on this side that the period of this Bill should be limited to two or three years at the most. None of us can yield to our friends Mr. Karanjia or Dr. Solanki in giving due credit wholeheartedly to the Government for having taken the steps to remove the cause of the recent trouble in so quick a time. But here the question is of putting on the Statute Book a Bill permanently and certain constitutional principles have got to be observed. I shall not repeat the arguments advanced by other members, but there are three points which I should like to urge on the consideration of the Honourable Minister. The first point is when an important piece of legislation is to be put on the Statute Book the general procedure is that it should not be undertaken in a state of panic or hurriedly rushed through. Granting the necessity—and we do grant the necessity—of such a Bill, there are these general considerations, that it must be conceived in a state of peace, when all minds are calm and ample opportunity is *available*—I do not say *granted* because it is being granted—*available* to ensure that no loopholes are left whereby the liberties of innocent people are in danger. For example, we were given by the Honourable Minister the assurance that the provisions of this Bill will not be put into force against people engaged in political activities, or, the trade union activities. I have not the least intention to belittle the significance of the assurances given by responsible Ministers on the floor of this House. But I wish to invite the attention of Government to an important constitutional principle emphasized by Dicey. One whole chapter has been devoted to the consideration of the question of the Sovereignty of the Parliament and the Supremacy of the Law. Here you just substitute the word “legislature” or “Council” for the word “Parliament”. This Council is certainly supreme in its legislation, but as soon as a Bill has been enacted, as soon as it has been put on the Statute Book, then it is the wording of the Act that holds supreme and not the intentions—not even the discussion that goes on in the House. I shall read the pertinent passage in Dicey:

“The principle that Parliament speaks only through an Act of Parliament greatly increases the authority of the judges. A Bill which has passed into a statute immediately becomes subject to judicial interpretation, and the English Bench have always refused, in principle at least, to interpret an Act of Parliament otherwise than by reference to the words of the enactment. An English judge will take no notice of the resolution of either House, of anything which may have passed in debate (a matter of which officially he has no cognisance), or even of the changes which a Bill may have undergone between the moment of its first introduction to Parliament and of its receiving the Royal assent.”

I wish to submit, Sir, that Government's intentions no one calls into question. But, even if they are in office for ten years, their intentions will not be binding on the interpretation that will be put on the wording and, therefore, the demand—

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I need not say the demand—the desire that has been expressed by my honourable friend on the right and I think by my honourable friend Mr. Joshi—that the very assurances that have been given by the Honourable Minister should be, in some form, incorporated in the wording of the Act. That is my submission. It is irrelevant to our discussions whether the present Ministry is going to remain in office up to the twelfth of May or is going to remain in office for ten years. Every Government must understand this that the Legislature is supreme so far as enacting a Bill is concerned, but, as soon as that has been done, the Legislature has no control over it and it becomes the subject of judicial interpretation. That is the first argument I wish to press on the attention of the Honourable Minister.

Secondly, we are not losing our eye on the practical side. You have now got all the powers, and you do not lose anything by putting a time-limit on this Act, say, for a period of two years. After two years you may introduce the very Bill; it may be found that no amendment is necessary; and certainly the House will come forward to support it as now. Thirdly, the Government themselves acceded to the wishes of the lower House in the case of the Electricity Bill in that they made the operation of the Bill limited to a period of one year. Again, even the Parliament renews the Army Act year by year and it is not put on the Statute Book permanently. On these three or four specific grounds—more for the principles of constitutional procedure—I wish to urge that Government be pleased to accept this desire of the opposition and enable us to pass this Bill with unanimity.

Mr. N. S. DESAI (Dharwar *cum* Kanara): Mr. President, I rise to support this Bill which has been brought before the House by the Honourable Minister. Sir, I am looking to the Bill not with the eye of a legal professional, because I am not a legal professional, but I am a man coming from the village side and therefore I see only the general aspect of the Bill. Sir, it may be the principle of the law that not a single innocent man should be sent to jail, though hundreds of offenders are acquitted. But this principle, I think, does not hold good in this case. I hold the life of an innocent man more valuable than the liberty of hundreds of *goondas* who are to be deported. If they are deported they will come back within a month or so, but the man who has been killed will not come back to his home again. Therefore, this point should be considered.

Now, before enacting any law, we must see whether it is necessary to have that, whether it is the proper time to do it or not. Now, if a question is asked, nobody will deny that it is a proper time and it is a proper occasion to enact this piece of legislation. Sir, let us see the history of these riots in the Bombay City. Since 1929 up to this time, there were ten riots within 9 years and every time it took away many lives. In all 550 lives had been lost and 4,500 persons had been injured. This is not a small number. Every riot lasted for so many days, some 25 days,

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some 36, and so on. In 1937 it lasted for sixty-four days. So this time we must thank the Honourable Minister who put an end to the riot within a short time, that is, within 2 hours and a half. It is not a small thing to do. The same police were there; the same military was there; the same Police Commissioner was there and the same authorities were there. Why did they not stop the previous riots within such a short time? It requires ability and diligence and care on the part of the man who wields the power, that is to say, the Home Minister. Our Honourable Minister wanted to stop it and he did so; that proves his ability.

Now, let us consider the state of the people of Bombay at the time when the riots were going on. When the riots begin all the shops are closed. There are so many persons in Bombay who live on their day's earning and, if the shops are closed, if the business is at a standstill, then what should they do? Besides, lives are being lost by stabbing even in broad daylight. This is the state of the Bombay citizens and to this I will add one more point. What will be the state of the outsiders who come to Bombay at such a time? In the year 1932 and also in 1933, I was here at the time of the riots, having come for the sake of some appeals in the High Court.

Mr. N. D. DEODHIEKAR: With money or without money?

Mr. N. S. DESAI: Of course, with money. Nobody will come without money. But that time I know what inconveniences the outsiders were
5-30 p.m. put to. Those that are in Bombay have got everything here. But what are the outsiders to do? Taking all this into consideration, I think that there is a necessity of passing such a law. Besides, I think that there is nothing wrong in the Act itself, because it says first it is the Provincial Government that has to declare the emergency and after that, the power is given in the hands of the Police Commissioner. It is not the police nor the military officers, but it is the civil officers who are to declare an emergency and at the time of doing that they will consider everything and when they declare it, the power is given to the Police Commissioner and at that time it is quite necessary. At the time of riots some injustice may be done, but that must be allowed. That should not be done intentionally, that is the only thing in it. If some injustice is done for the good of the people, it is pardonable.

One thing more. Our Honourable Home Minister has proved that he has got ability of stopping the riot by his first action, but he wants some more sharp weapon in his hand to stop the repetition of such riots in future here. That he wants for that purpose. When we are convinced that he has got that ability of stopping the riots, then why should we not put confidence in him and give him that weapon and tell him to do whatever he likes to stop the riot and at the same time save the lives of so many innocent persons? That is the chief thing. So with this intention we should give him the power. I am of opinion that such a weapon should be given in his hands and we should wait for one or two years and,

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if with that weapon he is not able to do away with the evil, we should see what further can be done.

On behalf of the outsiders who come to Bombay, I congratulate the Home Minister for having suppressed this year's riots in such a short time and for not having such riots in future this weapon may be given in his hands and tried for one or two years more.

With these remarks, I support the Bill.

Khan Saheb A. A. KHAN (Central Division) : Sir, I rise to oppose this Bill. The honourable speaker who preceded me has congratulated the Honourable Minister for having despatched the last Bombay riot so very quickly and has tried to argue that, if he had been empowered with powers similar to those given in this Bill, he would probably have been able to despatch the riots more quickly. I think, instead of bringing this Bill before the House and obtaining the powers which are now to be conferred upon the Commissioner of Police, the proper course would be to bring a Bill in the House conferring the post of Minister for Law and Order, particularly upon the present holder, because he showed such great ability in the suppression of the last riots.

The honourable member Professor Davar in the course of his speech cast a comprehensive glance on the House and remarked that all of us are democrats. I agree with him. All of us are democrats, but some are democratic democrats and some are autocratic democrats, that is the distinction. I submit that the Government which has come into existence has not taken the place of that bureaucratic Government which was in existence a year ago, but has, as a matter of fact, entered into an unholy alliance with the Government then existing, the bureaucratic machinery is still in existence and is actually working and the marriage of the bureaucrat and the autocratic democrat has produced legislation during the last 8 or 10 months which bears some virtues of one parent or the other and some vices also. In the case of the present Bill, I am afraid that it possesses the virtues of neither parent but possesses all the vices of both. The Act as it stood provides in section 27 that the Commissioner of Police shall have power to deport a gang or body of persons from the City of Bombay in certain circumstances. The present Bill seeks to invest him with similar powers and to that extent preserves the feature of the bureaucratic parent. But in the other respect, I am afraid the bureaucratic democrat has outbureaucratized the bureaucrat by providing that a person against whom order is passed under the present Bill will be deprived even of the right of getting the validity of the order passed against him adjudicated upon in a court of law as was done in the recent case of Yarmahomed. Section 128 of the Bombay City Police Act provides punishment for a person who within two years from the judgment of his removal returns to any place within the City of Bombay. If an order

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under section 27 is passed against any person he has only to break that order and he will be prosecuted, he may be convicted by the lower courts, he will still have the right of appeal to the High Court, it will be possible for him to go thoroughly into the question as to whether the order of deportation passed against him was valid or not, whether it was based on sufficient material or not. Even that right the Bill seeks to take away, by providing in clause 7 that an order passed by the Commissioner of Police under sub-section (1), (2) or (2A) or by the Provincial Government under sub-section (6) shall not be called in question in any court, except on the ground that the Commissioner of Police or an officer authorised by him has not followed the procedure laid down in the sub-section or the relevant material before the Commissioner of Police was not sufficient or on the ground that the Commissioner of Police was not of the opinion that witnesses were not willing to come forward to give evidence in the public.

In introducing the Bill, the Honourable the Home Minister remarked that in the capital of Bombay, as in other capitals, there is an underworld of criminals. That such an underworld exists in the capitals of the most civilised countries is a patent fact and it cannot be denied. With all the police force available to those countries and with all the power of legislation behind them, they have not been able to remove the criminals from the underworld and we are told that if this Bill is passed, what has been difficult or impossible of accomplishment in other capitals will be accomplished within no time in this capital. May I point out to the Honourable the Home Minister that where an underworld of criminal exists, the police have got to establish contact with that underworld and the only way of doing so is to get hold of some of the members of the underworld as informers. Checking all crime is practically impossible unless some such person comes forward who has to play the miserable roll of informer and to give information regarding offences which are committed. Now when that happens and this Bill is passed and becomes part of the Statute Book, the result will be that a great power for mischief and evil will be placed in the hands of these informers. They will not only give information, but possibly they may not give information regarding the criminals but they will certainly give information regarding the persons to whom they owe a grudge. They will go to the Commissioner of Police whose favourites they are and tell him that such and such a person is in the words of sub-section 2A causing alarm, that the movements of such a person are causing or are calculated to cause alarm, danger or harm to the person and property or in the words of sub-section 2C (iii) that the movements or acts of such a person are causing or calculated to cause danger or alarm or that a reasonable suspicion exists that designs, calculated to disturb peace or public tranquillity are entertained by such person. They have only to give such information and the result will be that possibly very innocent persons, innocently engaged in the pursuit of their own occupations and businesses will be deported from the City of Bombay.

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Sir, we have been talking a great deal for the last one year about the separation of judicial and executive functions. The Bench Magistrates have been abolished and there is a proposal to substitute for them a better type of magistrates. We are told that it is not desirable that revenue officers who are executive officers should be invested with magisterial powers. I think, about a fortnight ago, in the course of the speech which he delivered at Dharwar, the Honourable the Home Minister remarked that the question of separating the executive and the judicial functions was under consideration by his Government. Now here you are trying to deprive revenue officers of their magisterial powers. Although being called upon to do so, you will not be able to point out more than a couple of solitary instances regarding misuse of magisterial powers by revenue officers. You are on the eve of separating the judicial and executive functions and yet, in a state of panic caused by the recent riot of Bombay, you are introducing a legislation whereby you are empowering not persons who are exercising magisterial powers, but a police officer, an executive officer, with powers of practically deciding upon the character and liberty of individuals of the City of Bombay. Is this consistent with the policy which you have been following all along or which you have declared that you have been following all along? Is it consistent with the theory that judicial and executive functions should be separated?

We have been told that section 27 forms part of the City of Bombay Police Act, that if this Bill is not passed, that section will remain as it is, but that by passing this Bill you will be qualifying the rigour of section 27 of the Bombay City Police Act, and if you do not pass this Bill section 27 will remain, and the powers given by the section to the Commissioner of Police will be exercisable by him at all times. This argument contains neither logic nor reason. If section 27 is a good section, retain it by all means. If it is a bad section, get rid of it as quickly as you can. There is no reason why, because section 27 is not a good section, you should introduce a legislation for the purpose of qualifying the rigours of the section. I submit that in the argument which has been advanced with regard to section 27 by the Minister for Law and Order there is neither logic nor reason.

Then we are further told that the various safeguards which have been indicated by the High Court in its judgment in Yar Mahomed's case have been provided for. We are told that in this Bill there is provision that the person who is to be proceeded against under its provisions when it passes into an enactment will be given an idea of the nature of the charge against him, that he will be given an opportunity of answering the charge, that there will be material justifying the passing of the order of deportation, that extra safeguards have been provided for, that is, about the right of putting in a written statement, of producing witnesses, of appearing through a pleader and of appealing to the Provincial

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Government within a certain period of time. Let us examine these safeguards one by one. New sub-section (4) provides :

"Before an order under sub-section (1), (2) or (2A) is passed against any person, the Commissioner of Police or any officer authorised by him not below the rank of a Superintendent shall inform such person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of explaining those allegations."

What the High Court wanted to provide for was that the charge should state with sufficient particularity the nature of the allegations that were being made against the person who was sought to be proceeded against under section 27 of the Bombay City Police Act. According to the provision in the Bill, only the general nature of the material allegations against him will be given, and he will be given a reasonable opportunity of explaining those allegations. And what is that reasonable opportunity that he will get? He will not be told as to who are the informers against him; he will not be given to understand as to what is the nature of the evidence against him. All that he will be told is "You are a man with certain tendencies. We have information, the nature of which we are not prepared to disclose to you, the name of the informant also we are not prepared to disclose to you, that you are about to engage in certain nefarious designs. What is your explanation regarding those allegations?" That is all that the man will be told; that is the only opportunity he will get. He will not have the right of cross-examining those persons who have given evidence against him. He will not know who those persons are. In this state of affairs, can it be said that a reasonable opportunity of explaining the allegations is being given to the person who is to be proceeded against under sub-section (2)? Then the sub-section goes on to say :

"The Commissioner of Police or such officer may also examine witnesses, if any, which such person may produce, and any written statement put in by such person shall be filed with the record."

He may or he may not be able to examine witnesses. After all, the allegations are of a general character. There will be nothing particular about them; there will be nothing specific about those allegations, and it would be very, very difficult for him to produce witnesses to disprove those allegations. If a man is charged with having committed specific acts, he can produce witnesses to prove that he has not committed those acts. But if a general allegation is made against him, that he is engaged in certain nefarious designs, it will be very, very difficult for him to produce witnesses in support of his contention that he is not guilty of any such nefarious designs. As to the written statement that he has been given the right to put in, it is provided that it shall be filed with the record. He may put in a written statement which shall form part of the record. After all, it will be for the Commissioner to decide whether that written statement has any value or not. It will simply remain part of the record and nothing more. Then it says :

"Such person shall be entitled to appear before the Commissioner of Police or the said officer by an advocate or attorney for the purpose of explaining the allegations against him and for the purpose of examination of witnesses produced by him."

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I submit, Sir, that the procedure that has been laid down is a procedure which is followed by the judiciary in this country ; and I fail to see any reason whatsoever why, instead of investing the Commissioner of Police with these powers, a judicial officer like the Chief Presidency Magistrate of this city has not been selected for the purpose. You do not wish to disclose the name of your informant. You do not wish to lay before the person against whom you are proceeding the nature of the evidence against him, and the reason that you give is that witnesses are unwilling to come forward and to give evidence, if they know once that their name would be disclosed and that the person against whom they are deposing will come to know who they are and will come to know their identity, as they are afraid for their lives, and therefore it is necessary that their names should be concealed, their identity should be concealed, and only the nature of the information that they are able to give should be placed before the person who is accused of having done certain things. I submit, Sir, that this is a procedure which is extraordinary, to say the least of it. The principles of criminal jurisprudence which have been laid down in this country and which have become established in this country for the administration of justice provide that a man should know the charge that is being preferred against him, that he should know who is accusing him of the particular offence with which he is being charged, that he should have an opportunity of cross-examining his accuser and of cross-examining the witnesses who are brought forward to corroborate his accuser, that he should, in a word, be in a position to show, by cross-examination and by other methods which are available to him, that the evidence which has been produced against him is not worth credence at all. All this is being denied to the person who will be proceeded against under this Act, and I submit that there exists neither the necessity nor the justification for the passing of such a measure.

Sir, section 27 has been in existence for the last 36 years. I find from the High Court judgment that in the past, on no less than two occasions, Yar Mahomed alone has been proceeded against by the Commissioner of Police and deported from the city. My honourable friend Mr. Joshi wanted to know from Government whether the Commissioner has been exercising the power of deporting individuals in the belief that he had that power. No reply was given to him. We know from what we have read in the newspapers that this power has been exercised by the Commissioner for the last 36 years. He has been deporting individuals, though he had no right to deport them, except in relation to activity as members of a gang. Now if, in spite of the fact that the Commissioner has been exercising the powers given to him under section 27, if in spite of the fact that individuals have been deported from this city unauthorisedly, illegally, unlawfully, if in spite of all these facts we are told by the Honourable the Home Minister that no less than 10 riots took place in this city between the years 1929 and 1938, I would like to know what logic is there, what reason

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is there for extending those very powers which the Commissioner of Police has been exercising unauthorisedly and has been exercising to so little purpose in the past? What justification is there for investing him with powers which the High Court has declared he does not possess? If in the past he has not been able to prevent riots taking place in the city by the use of those very powers, what guarantee is there that in future he will be able to prevent riots by these powers which are being given to him under the blessings of this act? I submit that there is hardly any logic or any reason that has been advanced before us. The fact is that three-fourths of the debate has been carried on on a side issue. We have been talking about the horrors of riots. Nobody in this House, or outside this House, will assert for a moment that a riotous state of the community is a healthy state. Everyone will agree that riots should not take place and that when riots take place industries are thrown out of order, the economic situation of the town suffers, people lose their lives and leave this world no more to return as was remarked by one of honourable friends here. We know all that. We do not want that state of affairs to exist. We shall be very glad to cooperate with the Honourable the Home Minister in any measure that he might suggest for the purpose of preventing recurrence of riots in this town. The question, however, that we have to consider is apart from the horrors of riots and apart from the fact that riots are a very bad state of things, the question for our consideration, I repeat, is, whether this Bill is going to prevent riots or not. If this Bill is really going to put an end to riots then by all means pass it. But if this Bill is not going to put an end to the riots, then I see no reason in considering the horrors of riots, the loss of lives, the loss suffered on the economic side in this town and by industries. Hundreds of lives may have been lost, thousands of persons may have been injured, scores of mills may have been closed down as a result of the 10 riots that took place between the years 1929 and 1938. What guarantee is there that by passing this Act, by empowering the Commissioner of Police with powers which he has been exercising for the last 36 years that riot will stop. I submit that there is none and therefore there is neither the necessity nor the justification for the passing of such a legislation.

I am afraid this legislation has been brought in because Government were in a state of panic as a result of the recent riots. The riot took place; within a couple of hours it was nipped in the bud. But it was expected that it might become a factional and a communal one and considering from the experience in the past it might go on for days and days together. This circumstance, taken with the circumstance that in February 1938 the High Court laid down definitely that the Commissioner of Police has no power to deport an individual and that he can only deport a gang or a body of men, have led to the present legislation and the unfortunate part of it is that this Bill has been tinkered to such an extent in the lower House that it is almost difficult to recognise it. We have now two parts or two aspects which we have to deal with. First of all,

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there is the power given under section 27, modified, as the Honourable Minister says, to a certain extent. Then there is the emergency power provided for in clause 2-C of the Act. The first deals with the normal state of affairs and the other is expected to deal with a situation which arises on the eve of, or at the time of the outbreak of a riot. The provisions of both are more or less similar, though there is a very slight change in the two, and I have already pointed out, in spite of the fact that the Commissioner of Police has been exercising those powers, he has not been able to put an end to riots in the past. Therefore, I think the passing of this legislation will not be of help to us at all.

Now it has been further remarked that communal riots are begun by hooligans and are continued by hooligans; that there are certain people to whom the Government choose to characterise or describe as *pucca mavalis*. We have been talking of *mavalis* and *goondas* for the last 3 or 4 hours, but nobody has ever taken the trouble of asking us what is a *mavali* or what is a *goonda*. How are you going to find out whether a particular individual is a *mavali*? Does a *mavali* wear long hair? Does he wear a particular kind of dress? Does he wear a particular kind of cap? Does he follow a particular kind of profession? Sir, I had a very novel experience of a riot which took place some time ago. Certain acts of violence were committed. The day after the riot the city fathers waited upon the District Magistrate and requested him to round up all the *mavalis* in the town and they pointed out to him that if that was done, the riot would stop altogether. I do not know whether the District Magistrate acted upon the very sound advice given by the city fathers, or whether he acted on his own, or whether the action which was taken up by the police later in the day was the result of some other suggestion on their part, but the fact remains that in the evening the Police Inspector started what I may call a *dhar pakad* campaign. He started at about 5 o'clock and by about 9 o'clock he was able to round up about 45 persons. If a man came without any cap on his head, the Sub-Inspector said "Here is a *mavali*, put him in the Police car". A man came without having a coat on his person; the Sub-Inspector said "All right, here is another *mavali*, put him in the car". A man came chewing *paan*, the Sub-Inspector said "Here is another, put him in the car". I know, Sir, in this manner 45 persons were rounded up and the result was that practically all the cases that were brought forth in connection with that riot were against those 45 persons. After this Bill passes into an Act, the question will still remain, who is a *mavali* and who is not a *mavali*. Is a man who is poorly dressed to be considered a *mavali*? His poverty equivalent to *mavaliship*? How on earth are you going to find out who is a *mavali* and who is not a *mavali*?

One of the speakers on this side of the House remarked that even the Police have to take the aid of *goondas* and *mavalis*; that in the course of their night rounds, they are required to ask the protection of these people, otherwise if they were to pass through blind alleys, or through

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unfrequented lanes, their lives would be in danger. Now, if *maualis* exist and they have served this very useful purpose of protecting the protectors of the citizens of this town, would we be justified in deporting those very *maualis* who have been extending the protection to the police force in this town ?

The Honourable Mr. K. M. MUNSHI: Hear, hear.

Khan Saheb A. A. KHAN: Would we be justified in exposing the person who helps the police officers of this town and protects them from death when they are on their nightly rounds ? And is it likely that these friends of the police will at all be proceeded against under this Bill ? Informers will not be proceeded against. They are not necessarily the riff-raff of the society, they go about well-dressed on the profits of their professions as informers. The informers will not be proceeded against. The *maualis* or *goondas* who extend protection to the police will not be proceeded against under this Act. Then what remains and who will be left over to be proceeded against. I submit there will be none left except the enemies of those *maualis* and *goondas* who will be extending the protection to the police and who will be giving very useful information to the police who will be exposed to all the risk and all the dangers involved.

There has been an assurance given by the Honourable the Home Minister that this Act is not intended to be used against political workers or against persons employed in the strike or labour activity. I do not know how far that assurance could be accepted by us in view of the fact that the final authority for the purpose of deportation will be not the Government, but the Commissioner of Police. We know that sometimes political activities lead to strikes and if the Commissioner is of the honest opinion that breach of peace or disturbance of public tranquillity is likely to result from these political or labour activities, if he honestly thinks that, that such a situation is likely to arise, is he or is he not to deport those people, is he or is he not to utilise the power that is sought to be given ? If he is not to utilise this power, then my submission is that the Bill is a superfluity. If he is to utilise those powers, then the assurance that has been given is useless altogether.

My main objection to the Bill is that we are seeking to authorise an executive officer with powers which ought really to vest in a judicial officer and this is a state of affairs which is to be condemned in strong and emphatic language. We have been embarked fairly long upon a policy of separating the judicial and executive functions and it is too late in the day to say that in certain cases, the executive officers should be invested with powers which really are the functions of judicial officers only. It may be remarked that unless this is done it would not be possible to prevent riots taking place. My submission is that it is not by legislation like the present one that we can prevent riots taking place, it is by measures in quite other direction that should be undertaken for

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the purpose of preventing the riots which are of two characters, either communal or factional. If they are communal the Government can find out long before the riot takes place that the riot is to take place. The proper course to follow is to remove the cause of friction without taking sides in the matter, consult the leaders of both communities, go thoroughly into the merits of the question, boldly decide what is wrong and what is right, satisfy both parties that your decision is the right one, is the correct one, is the legal one and as soon as you do that the riot will be prevented. You can also concentrate police force in the area that is affected by communal agitation. If you adopt these two remedies, communal riots will never take place.

Usually when communal agitation is going on, Government have not taken the trouble of bringing about a settlement of the question. They usually turn round to the two communities and say: "Look here, in the interests of the good reputation of this town and the interest of the good reputation of this country it is up to you to decide what is the best solution of the trouble that is taking place. We do not wish to interfere. If we do so we might be charged with having taken sides, we might be charged with having been partial to one or the other." And in this manner, the agitation drags on and eventually there is an outbreak of riot, precious lives are lost, valuable properties are destroyed and then police force is concentrated into that area or military is called in and the riot is suppressed. Instead of waiting till the horse is stolen to close the stable, you close the stable before the horse is stolen and you will find that the horse is not stolen. Go thoroughly into the merits of the question. Take the leaders of both parties into your confidence, approach them in a sympathetic manner and try to bring about a settlement of the dispute. At the same time, provide sufficient police force in the locality so as to prevent any breach of the peace. If you take these two remedies, I am sure, communal riots will not occur again. After all, once a communal riot takes place it spreads and it spreads like wild-fire. It is not confined to the riff-raff of the two communities only. It spreads upward to the higher strata of life and if you go on deporting I am afraid that in order to achieve the result which you are aiming to achieve, you will have to deport practically all the members of the two communities that live in this town. You will have to establish a riot camp outside the town of Bombay, one on this side, one on that side, surrounded by barbed wires, probably electrified, Hindus on the one side and Mahomedans on the other, till they see reason and not allow them to return till they have seen reason. It is not by deporting any individual or even hundreds of them that you will be able to prevent riots. You have to remove the root of the trouble. You have to go to the cause and once you remove the root or cause, the riots will not take place.

Then the other kind of riots are factional riots and with regard to these factional riots also, Government can find out sufficiently in time what is the root of the trouble, what is the cause of the friction that is taking place

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between the two factions. The same remedy should be applied. Police force should be concentrated in that area and the trouble will cease.

Instead of adopting these measures, practically in a panicky state, you are embarking upon a legislation by which you are out-bureaucrating the bureaucrat whom you have been abusing in the past. You are bringing upon the Statute Book of this country a legislation which you will probably live to repent on at no distant time in the future. It is inconsistent with your programme, it is inconsistent with all your declarations both in the press and on the public platforms, and inconsistent with the policy of non-violence of which you are so proud.

If you want to prevent breach of the peace and disturbance of public tranquillity in this town or in any other town in this Presidency you have got to proceed about it in a different manner. You cannot follow and imitate the example of the bureaucrat. What has been done in the past may have been done. You have been agitating against it. Does it lie in your mouth now to say the same thing which the bureaucrat said and against which you have been agitating all along? On these grounds, Sir, I oppose this Bill and I say that it is a retrograde measure and it is a measure which affects the fundamental rights of the citizens of this town. It is an invasion on the liberty of all the citizens of this town because one does not know what the Commissioner of Police may do. It has been remarked by the honourable member Dr. Solanki that the present Commissioner is a gentleman. He is such a gentleman that even Dr. Solanki felt doubts as to his efficiency to deal with situations like the present one. My reply to that is that the present Commissioner of Police may be a nature's gentleman. The future Commissioner of Police may not be exactly like the present Commissioner of Police. On the same arguments and with equal logic and reason, you can justify the existence of a tyrannical form of Government. One tyrant may be a very good man; he may take the greatest possible interest in his subjects; he will enjoy autocratic power, but he will use that autocratic power for the welfare of his subjects. He dies; his son follows him. We have examples of this in history; any number of examples can be found in the pages of history. His son follows him, but the son is not like the father. And the result is, he begins to oppress his subjects. And the same thing can happen if the present Commissioner of Police retires or is promoted to a higher office, and another person comes and takes his place. I am opposed on principle to the empowering of police officers with powers which ought really to be given only to judicial officers. If, instead of the Commissioner of Police, the Honourable the Home Minister had put down the Chief Presidency Magistrate, we should have had no hesitation in accepting this Bill. After all, the Chief Presidency Magistrate is an experienced judicial officer. Even if you go and tell him that certain names will not be disclosed, that the nature of certain evidence will not be disclosed, that certain papers would be placed before him that they would be of

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a confidential character—he may read them, but should not disclose them to the person who is proceeded against—he will go thoroughly into that question. And if he comes to a decision that a particular person deserves to be deported, one can take it that in nine cases out of ten he will be right. Whereas, in the case of the Police Commissioner, in six cases out of ten, he is likely to be wrong. He has got his own mentality; he has got his own attitude of mind; he looks at things in a different manner from that of the magistrates and the judiciary. If the peace or tranquillity of the town of which he is in charge, as the head of the Police is disturbed, he thinks that he will lose his reputation. The idea that his reputation is at stake and may suffer at any moment is always before him, and he looks at things from that point of view and that point of view only, whereas the Chief Presidency Magistrate will probably go thoroughly into the question and will bring all his common sense and judicial experience to bear on the material placed before him by the police. He will not disclose the material or mention the names to anybody, but he will go through the papers and tell the person who is accused “Such is the nature of the accusation made against you, the charge preferred against you; what have you got to say?” Any explanation that the accused person, or suspect, may give would be considered duly by him; any evidence that the accused person or suspect may be able to produce will be duly considered by him. The fact that in the case of vague and general allegations, it is very very difficult to get witnesses to disprove them, will also be taken into consideration by him. And if, after taking all these circumstances into consideration he comes to a decision, it could be said to be a judicial decision. He will say: “All right, my man, you deserve to be deported, and you will have to go.” Or he will say to the police: “You have got the wrong man, and I am not going to deport him”. Instead of empowering the Chief Presidency Magistrate with these powers, the Honourable Minister is trying to perpetuate the state of affairs which existed under the bureaucratic Government, for having got rid of which, and got rid of so happily, we are congratulating ourselves every day of our lives. He is perpetuating that very state of affairs which existed under the bureaucratic government. He wants us to live under the belief that we are under a democratic form of Government and not under a bureaucratic form of Government. I am afraid that the present Government is not a democracy; it is merely a mixture of bureaucracy and autocratic democracy. As a result of this mixture we have seen legislation which sometimes has surprised us, which sometimes has stunned us, which has raised fierce opposition from our side, but to no purpose. I am afraid my honourable friend Mr. Pradhan will get up after me and say in the manner of a Roman senator: “If there is no logic, if there is no reason, on your side, your voice will not be taken into consideration.” I am afraid another honourable friend sitting on the other end of the bench with him will get up and say that by enacting this legislation Government are trying to turn the citizens of this country into better citizens. He will probably quote from the report of some committee or other, and say that this legislation is justified because in other civilised

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countries certain committees which were appointed for the purpose of going into similar questions have come to similar decisions. All that I can say, however, is that it does not appeal either to our logic or to our reason; nor does it appeal to our idea of what a democratic Government should be. We think that the fundamental rights of the citizens are being invaded by means of this legislation, that the liberty of the innocent citizen in this town will be at considerable stake, and that it is, therefore, our duty,—though the Lower House has passed this Bill,—it is our duty to reject the Bill even at the first reading.

Mr. N. D. DEODHEKAR: On a point of information. May I know from the honourable member (Khan Saheb A. A. Khan) what he meant by "Nature's gentleman"? He described the Commissioner as "Nature's gentleman".

Khan Saheb A. A. KHAN: Ask Professor Davar. He should tell you. If he does not help you, ask any other professor of languages.

Mr. R. G. PRADHAN (Thana *cum* Nasik *cum* Ahmednagar): Mr. President, Sir, I am handicapped by the fact that owing to the excessively long speech of my honourable friend from Poona, I am compelled to rise at a late hour. My apology for participating in this debate is that the Bill is so important that it ought to be considered from every point of view, and I feel that I should ask the House to look at the Bill from the particular point of view from which I have been trying to consider it. But before I place before the honourable House my main reasons why this Bill ought to be supported, I wish to reply to certain points raised by my esteemed friend Principal Mahajani.

The honourable member Principal Mahajani referred to certain principles, constitutional principles, laid down—I suppose—in Dacey's *Law of the Constitution*. Am I correct?

Dr. G. S. MAHAJANI: Quite correct.

Mr. R. G. PRADHAN: I will take up the objections which he urged against the Bill. His first objection is that this legislation is a panicky legislation. Well, my answer to that objection is a categorical denial. I repudiate the allegation that this Bill has been brought forward by the Government in a state of panic. When I listened to that statement, I began to ask myself "Where is the panic?" Is there anywhere the slightest indication of any panic? As far as I can see, even in this vast city of Bombay there has been no panic at all. Neither in the Lower Chamber nor in this Chamber have I been able to discover the slightest trace of panic. And I venture to assert that this Congress Government would be the last Government to yield to panic. It is not a Government that is capable of being influenced, or misinfluenced, by panic; it will face a problem with courage, with confidence, with calm and cool determination. And I am certain that this Bill has been introduced by the

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Government without in the least being influenced by any feeling of panic.

Dr. G. S. MAHAJANI: Was it not conceived when the curfew order was on?

The Honourable Mr. K. M. MUNSHI: No.

Mr. R. G. PRADHAN: The curfew order is not any indication of panic. If my honourable friend thinks that the curfew order indicates panic, all I can say is that he does not know what it is to rule, to govern a people, particularly when the law is broken. The issue of a curfew order is not in the least an indication of a panicky state of mind on the part of Government. My submission to the honourable House is that the allegation that the Government are in a panicky state of mind when they are bringing forward this legislation is nothing but a figment of his imagination.

Then, Sir, he said that the words in a statute are conclusive, and the intentions of the legislature will not in the least be inferred in a judicial court. That is right; I quite agree. But that question arises only when the language of a statute is ambiguous, when a particular clause or a particular expression in a clause is susceptible of a variety of interpretations. My honourable friend has not pointed out a single clause or a single expression in this Bill which is ambiguous. No doubt my honourable friend Mr. Joshi said the same thing, he said that certain words and the language in certain places in the Act were ambiguous. Well, he too has not been able to point out what section or what clause is ambiguous. Therefore, merely quoting a dictum from an authority on constitutional law that the meaning of a statute ought to be inferred from its language, gives no point to the objection against this Bill, unless and until it is clearly proved that particular expressions in the Bill are ambiguous, are capable of a variety of interpretation. Later on, when we come to the second reading, if it is discovered, or my honourable friend takes the trouble of pointing out, that particular words or expressions are ambiguous, then certainly it is open to the House to remove the ambiguity.

Then, Sir, it was urged by my honourable friend Principal Mahajani that this Bill should be confined to a particular period of time—I suppose he mentioned a period of three years. Well, look at the anomaly of his suggestion. The operative part of the Bill is clause 2. Clause 2 practically is nothing but an amendment of the original section 27.

6-30 p.m. Now, the original section has been a part of the Act for a number of years, and nobody has objected to it. It has been a part of an Act which is permanently placed on the statute book. My honourable friend suggests that this clause, which is nothing but an attempt to amend the original section and to bring it in line with the requirements of the present times, should be limited

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only to a period of two or three years. I can conceive of nothing more anomalous and nothing more objectionable than this particular suggestion. Sir, we have to approach this whole Bill from one particular angle of vision. What is the problem before us? We have to consider what the problem before us is. Then, secondly, are the powers which are sought to be given by this piece of legislation necessary or not? Will they be helpful or not in order to solve the problem even to some extent? Well, Sir, the problem before us is this. In this city there are a number of persons who are a danger to the city. That is a statement which is not contradicted: it has been admitted by each and every member of the House that this city, this vast city, with a population of 13 lakhs, contains a considerable number of people who are a danger to the peace of the city and who are causing trouble in various ways. Now the question is, should these people be dealt with or not? Is it or is it not necessary to take some action, to take some powers which would enable the proper authorities to deal with these persons, these hooligans, these mavalis?

In this connection, I should just like to place a suggestion before the Honourable Minister. I should like to ascertain from him and from the Government whether, among these disorderly elements, there are aliens. I want to know how many aliens are in our province and what proportion of this alien population form part of this element which has been giving constant trouble to the Government. I have a suspicion that there are some aliens or foreigners who form part of this mischievous and troublesome element of the population. There are, for instance, Pathans. I do not want to make any general indictment against any section; remembering the dictum of Burke that no allegation or charge should be made against any particular section—or any particular community, I do not want to make any general charge against these Pathans. But the Pathans are not now confined to the city of Bombay; they are penetrating slowly but surely into the district towns and probably in course of time they will penetrate into the villages.

Mr. N. D. DEODHEKAR: They have already done that.

Mr. R. G. PRADHAN: My honourable friend corrects me and says they have already penetrated into the villages. I feel that here is a section of foreigners; I further feel that they probably constitute a focus of trouble and disorder. Without committing myself to any particular or definite views as to how they should be dealt with, I want the Government to go into that question in connection with this matter and find out whether there are aliens in our province who form part of this disorderly section of the population and who cause a lot of trouble and mischief to the city and possibly to other parts of our province.

My honourable friend from Poona, to whom I listened with the keenest attention, made a statement that this Bill could not help to prevent

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communal disturbances. Well, I quite agree with him. No piece of legislation is likely to prevent communal disturbances unless there is a change of heart on the part of the communities, unless the cultures, the religions, the notions, and the sentiments of the communities concerned are enlightened and unless they are bent upon trying to understand and appreciate one another—unless and until, as Mahatma Gandhi has often said, and rightly said, there is a change of heart on the part of the communities concerned. Complete prevention of communal riots is impossible when some sections, including possibly some leaders, are thinking of having a sort of regime which will draw its inspiration from outside the frontiers of this country—when, on the one hand, some leaders of the Hindu community begin to think and preach that Hindusthan is for the Hindus only, and on the other hand, some Mahomedans look beyond the frontier and think that pan-Islamism ought to be revived and, if possible, the domination of Muslims should be restored. When there is such a mentality—[*Interruption.*] I do not say, on the part of all; I am very glad to say that that is not the case with all; but it is no use denying the fact, it is no use disguising the fact that in both the communities there are elements, influential elements, who are thinking of the problem of India on communal lines and not in the proper spirit. So long as that is the state of things in our country, communal riots are bound to break out at times, and neither this piece of legislation nor any other is going to prevent communal riots altogether. But the question is whether the powers which are sought to be given by this Bill are or are not necessary, whether they are or are not useful for the purpose, in the first place, of dealing with undesirables, and, secondly, of preventing communal riots as far as possible. My submission to this Honourable House is that these powers are desirable and necessary. I am prepared to admit that every power is liable to be abused by bad people. But because there are unfortunately bad people in society, and because, further, they will abuse the powers with which they may be entrusted, it does not logically follow that these powers should not be given by a piece of legislation for the purposes for which they are designed.

I request the Honourable House to look at this piece of legislation from a broad point of view. There may be some considerations, certain criticisms advanced by some honourable members which are certainly entitled to consideration; but it is not possible to enact such a piece of legislation and at the same time to give undue or excessive consideration to those criticisms. In spite of all regard for those criticisms, and fully recognising the value of the criticisms made, my submission to the House is this, that the powers which are sought to be given by means of this Bill are perfectly necessary.

One point I wish to refer to, and I shall have done. My honourable friend from Poona suggested that these powers should be given to the

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Presidency Magistrate ; he would have no objection to the Bill if instead of the words "Police Commissioner", the section had introduced the words "the Presidency Magistrate". With all due respect to him, does he realise the significance of his suggestion? The result of that suggestion will be that the Chief Presidency Magistrate or the Presidency Magistrate will himself become a Police Commissioner—not that the state of things will be improved thereby. Therefore, my submission is that there is no logic or rhyme or reason in the particular suggestion which he has made.

I submit that this House should view the Bill from a broad, general point of view, and if it is convinced that these powers are to be given, that the time has come for amending that particular section and also for introducing this emergency clause—I attach the greatest importance to the emergency clause, it is an excellent improvement which the Honourable Minister has made—

Mr. N. D. DEODHEKAR : That was Dr. Ambedkar's amendment.

Mr. R. G. PRADHAN :—if the House is convinced of all this, it should pass the first reading. With these words, I heartily support the Bill, and I hope the Bill will commend itself to the acceptance of the House.

The Honourable Mr. K. M. MUNSHI : Mr. President, I will try to be as brief as I can. The first question is about this Bill being rushed in a panicky frame of mind. It is the fashion with an opposition always to attribute motives to Government which are far from real. This judgment was delivered in the beginning of February. That immediately set Government thinking on this question, and had it not been for the riots, the Bill would have been brought up in July or August, when we met in Poona. It is not as if thought was not applied to this measure ; but the necessity for bringing it in this session arose by reason of the fact that out of the 2,000 and odd people collected in the Worli temporary jail, there are some well known and dangerous people who, if allowed to get out, will be re-absorbed in society and will not be found again for some months. That was the reason for this Bill being brought in this session. But when the Bill was drafted and before it was published, I showed it to several leaders of the Opposition and got their advice and suggestions on it. After publication, there were further consultations. One honourable member talked about a select committee. It was more than a select committee that we had, because even the select committee that was proposed was perhaps smaller in number than the leaders of the Opposition and other independent members whom I invited and with whom I discussed the matter.

Professor SOHRAB R. DAVAR : Nobody was invited from this House. You have always been ignoring this House, in select committees as well as all your conferences. That is our grievance.

The Honourable Mr. K. M. MUNSHI : I will see that that grievance is redressed so far as I am concerned. I stand rebuked in that respect.

So, Sir, all of them were taken into confidence, and we started on the first day with the fullest co-operation of every section; the Leader of the Muslim League Party and Dr. Ambedkar also helped. We tried to put in as many safeguards as were thought necessary, in the hope that this Bill would be carried as a unanimous measure. But something did happen, as always happens in everything, and the next day we found that the gentlemen who were more or less agreeable, started suggesting so many other safeguards to turn the Bill into an entirely useless one.

An Honourable MEMBER : It seems wisdom dawned on them later.

The Honourable Mr. K. M. MUNSHI : Yes, wisdom dawned on them later. But even after that, whenever any suggestion was made which fitted in with the central idea of the Bill, it was frankly accepted. The honourable member Mr. Deodhekar said that I accepted Dr. Ambedkar's amendment. I did accept Dr. Ambedkar's amendment and I am not ashamed of it because it was a good and welcome amendment. As I said, the central idea of this Bill is that there is a certain class of criminals against whom witnesses are not willing to come forward and give evidence in public. If any gentleman here says that there is no such class, then I must say that he does not know the conditions in Bombay. But if you admit that there is such a class of criminals against whom witnesses, for reasons of their personal safety, are not willing to come forward, then it must follow that the judicial nature of the enquiry must be converted into an executive enquiry. As soon as there is a judicial enquiry, you must produce the witnesses in the open court and you must examine them. Nothing short of it can be said to be possible in a judicial enquiry. Therefore, if the honourable members here, as in the Lower House, admit that there are cases of this character where witnesses will not be forthcoming, then the question becomes simple. Are we to leave them alone in our love of so-called civil or criminal liberty, or are we to create a new kind of enquiry with proper safeguards?

Now, Sir, the first point is about fundamental rights. The fundamental rights do not apply to persons who are so dangerous that witnesses cannot come forward to give evidence against them. It is not a question of judicial or executive function, because by the very nature of this class of persons you cannot have a judicial enquiry. Therefore, unless you are prepared to go to this length that our love of judicial enquiry should be so unbounded that such mawalis be allowed to multiply and that they should not be touched except by a judicial enquiry, we must have this judicial enquiry converted into an executive enquiry. Then, what is a Mawali? The "Mawali" is defined in sub-section (1) of section 2. A pucca mawali is a person whose movements are calculated to cause alarm, danger or harm to person or property and there are reasonable grounds to believe

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that such person is engaged or is about to be engaged in the commission of an offence involving force or violence; and what makes the difference between the ordinary mawali and the pucca mawali is that as against the latter witnesses are not willing to come forward to give evidence in public by reason of apprehension on their part as regards the safety of their person or property. If, therefore, there is a man who is contemplating an offence of the character mentioned in sub-section (1) and is such a man that witnesses are not willing to come forward, you have got the pucca mawali. The definition is there for any one to read. If he is a mild kind of mawali, then witnesses will come forward to give evidence against him. So also, if he is a political worker, however dangerous he may be to person or property, witnesses will come forward to give evidence against him. It is only the class of men against whom witnesses are not willing to come forward that will come under the provisions of this Bill. Every man who has not reached that stage of a pucca mawali will not come under this Bill.

An Honourable MEMBER: Who will decide that witnesses are not willing to come forward?

The Honourable Mr. K. M. MUNSHI: The Police Commissioner decides that and for the simple reason that if you allow it to be decided by a judicial court, then the whole evidence must be produced, the witnesses must be produced and that presupposes that witnesses are willing to come forward. If you postulate the position that there are persons in the city of Bombay against whom witnesses are not willing to come forward, then it must logically follow that this Bill is a sound proposition. If you say that there is no such class of persons in the city of Bombay, then I can only attribute that statement to the ignorance of the conditions in the city of Bombay. So, that disposes of the question about the fundamental rights.

Then, one honourable member asked "why not a Presidency Magistrate?" He forgets that a Presidency Magistrate is a judicial officer and the proceedings before him will be open to revision by the High Court, which again means that the whole evidence will have to be disclosed. Then another honourable member asked as to why we have introduced sub-clause (7). The sources of information of the Police Commissioner are protected by the Indian Evidence Act, but we have to protect against another thing—disclosure of the identity of the individual giving the information. I have already given an instance of a case in which as soon as the witness came forward to give evidence the accused went up to him and stabbed him. This is the class of men against whom protection is given to the average citizen.

The next point raised was about their dread of misuse of these powers after this Ministry vacates office. Well, if the democratic Government continues and we are in power, the other side has no fear of its use. And if we are not in office, then the other side will come in and they will

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promptly withdraw the Bill and so there will not be any danger of its being misused. Further, if there is no democratic Government and section 93 of the Government of India Act is brought into operation and if Ordinance rule follows, then nobody would be safe under any provision and all democracy would be at an end.

Then a point was made that no real necessity for this Bill was proved. Argument No. 1 is that in spite of the fact that about 600 people were sent out of Bombay there were so many riots. Therefore, it is a case for making the powers more stringent. Even under section 108 you have to produce witnesses to show that the man has no ostensible means of livelihood. Therefore, that also does not serve the purpose. Very often judges express their opinion on certain points in the case, on facts not placed before the Court, and this expression of opinion should not be given that sanctity which a considered and deliberate judgment is given.

Then, as regards section 27, I made an offer to the Lower House. I told them that if they thought that what we are going to substitute was worse than sub-section (I), then Government were willing to keep the sub-section (I) as it was; but competent lawyers on the other side said "No" because this is a distinct improvement in favour of the individual liberty.

An Honourable MEMBER : Is the offer still open ?

The Honourable Mr. K. M. MUNSHI : It is not open. Further I am convinced myself that this is a distinct improvement on the old section and there are many members on the opposite side who are agreed that this new section with the safeguards is a much better section than sub-section (I). The reason is that instead of "gangs" we have got "individual". In the old section it is mere "danger" and not danger to person or property. Further, you have got the right to appear by a pleader and to produce witnesses. All this means that the present section is infinitely better than the old sub-section (I). As I said, I am quite willing to withdraw the Bill and amend the section by taking away the word "encampment" and putting the word "acts", but in the Lower House the honourable member Dr. Ambedkar said "No". I assure the House when I brought in this Bill it was only with the knowledge that even sub-section (I) gave more powers to the Police Commissioner and that it was necessary that the powers of the Commissioner should be defined and made subject to an appeal to the Provincial Government. If it happens that we cannot control the element even with this power, then it may become necessary to have more stringent powers. But one thing is certain that if this city is to remain in peace, people cannot ride theories to their death and say these mawalis must be allowed to go about and enjoy the civil or criminal liberty of stabbing innocent people.

Sir, the honourable member Sir Currimbhoy said that even the police were at the mercy of these goondas. If the mawalis are so powerful as

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to keep the Police at their mercy, the sooner they are sent out of Bombay the better. Of course, I do not know whether the Police are really at the mercy of these mawalis; the honourable member knows the city better and he knows the goondas better than I do. But if it is so, I say that there is all the more reason for making the powers more stringent. The Bombay City Police is considered to be the most efficient Police in India and if it is placed at the mercy of the mawalis, it is a clear case for the removal of these mawalis under any circumstances and under any conditions.

Sir, I have only one word to add. I have already explained in my reply to the honourable member Professor Davar that no political worker can ever be touched by this Bill. If you look at sub-section (1), you will find that no political worker, unless he is about to be engaged in any of these offences, or is a danger to person or property and against whom no witnesses are coming forward to give evidence—and I do not think any politician worth the name will be so dangerous that nobody can give evidence against him—or that he is counterfeiting coins or committing dacoities or thefts——

Professor S. R. DAVAR : The Police Commissioner can easily bring in a political worker. Supposing there is a boycott movement and political workers are picketing some shops, then the political workers can be brought in under this section as they are a danger to trade.

The Honourable Mr. K. M. MUNSHI : In the first place, there is a provision for appeal to the Provincial Government and no Government would be able to face the public for a minute if it abuses its powers. Besides, when a political worker pickets a shop he is prepared for arrest ; it does not matter to him whether he is arrested under this section or under any other section. We are not afraid of any section, because the day we started our activity we undertook all risks. We are sure that if this section is not there, there will be some other section. The Ordinance law will be there. Under the section, as amended, the political worker is entirely safe unless the political worker has degenerated into a regular mawali. In that case he deserves to be treated as a mawali. And no political worker will be in sympathy with such a man. Therefore, Sir, I submit that this is a very sound measure and is required in the interest of the city and should be accepted by the House.

7 p.m.

Question, "That the Bill be read a first time," put, and agreed to.

The Honourable the PRESIDENT : Bill No. XIX of 1938 is read a first time.

The House then adjourned till 2 p.m. on Wednesday, the 4th May 1938.

Wednesday, the 4th May 1938.

The Council re-assembled at the Council Hall, Bombay, on Wednesday, the 4th May 1938, at 2 p.m., the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HALDIPUR, Mr. S. R.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, Khan Saheb A. A.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MARWADI, Mr. P. S.
 MEHTA, Mr. CHUNILAL L.
 MEHTA, Mrs. HANSA JIVRAJ
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
 VIRKAR, Mr. M. B.

The following Honourable Ministers were also present :

The Honourable Mr. B. G. KHEB
 The Honourable Mr. K. M. MUNSHI.

BILL No. XIX OF 1938 (AN ACT TO AMEND THE CITY OF BOMBAY POLICE ACT, 1902).

The Honourable Mr. K. M. MUNSHI : Sir, I move that Bill No. XIX of 1938 (An Act to amend the City of Bombay Police Act, 1902) be read a second time.

Question put, and agreed to.

Bill read clause by clause.

Clause 1 (*Short title*) ordered to stand part of the Bill.

Clause 2 (*Amendment of section 27 of Bom. IV of 1902*).

In section 27 of the City of Bombay Police Act, 1902,—

(1) In sub-section (1)—

(i) for the words beginning with the words "that the movements or encampment" and ending with the words "pauper immigrants" the following shall be substituted, namely:—

"(a) that the movements or acts of any person in the City of Bombay are causing or calculated to cause alarm, danger or harm to person or property, or that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of an offence involving force or violence, or an offence punishable under Chapter XII, XVI or XVII of the Indian Penal Code, or in the abetment of any such offence, and when in the opinion of the Commissioner witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part as regards the safety of their person or property; or

(b) that an outbreak of epidemic disease is likely to result from the continued residence in the city of an immigrant."

(ii) for the words "the members of such gang or body or such immigrants" the words "such person or immigrant" shall be substituted;

(iii) for the word "themselves" wherever it occurs, the word "himself" shall be substituted.

(iv) the words "disperse and" shall be deleted.

(2) After sub-section (2B) the following shall be inserted, namely:—

"2C. *Proclamation of Emergency.*—(i) The Provincial Government may, if satisfied that the peace or public tranquillity in the City of Bombay or in any part thereof is disturbed or is likely to be disturbed in consequence of a conflict between different communities or sections thereof or gangs or factions, declare, by a proclamation (hereinafter referred to as 'the proclamation of emergency') in the *Official Gazette* that an emergency exists.

(ii) A proclamation of emergency—

(a) may at any time be revoked by a subsequent proclamation and

(b) shall cease to operate at the expiration of one month, unless before the expiration of that period it has been renewed.

(iii) After the Provincial Government has issued under clause (i) a proclamation of emergency, the Commissioner of Police, whenever it appears to him that the presence, movements or acts of any person in the City of Bombay is or are causing or calculated to cause danger or alarm, or that a reasonable suspicion exists that designs, calculated to disturb peace or public tranquillity are entertained by such person, may by beat of drum or otherwise, as he thinks fit, direct such person so to conduct himself as he shall deem necessary in order to prevent the disturbance of the peace or remove himself to such place or places, by such route or routes, and within such time, as the Commissioner of Police shall prescribe.

(iv) Any person aggrieved by an order made by the Commissioner of Police under clause (iii) may appeal to the Provincial Government within ten days from the date of such order.

(v) Subject to the appeal under clause (iv), an order made by the Commissioner of Police under clause (iii) shall be final.

(vi) Nothing hereinbefore contained in this section shall require any police officer to disclose to the person against whom an order is made under clause (iii) or to the Court the sources of his information or any fact the communication of which, might, in the opinion of the Commissioner of Police, lead to the disclosure of the identity or name of any informant.

(vii) Any order passed by the Commissioner of Police under clause (iii) or by the Provincial Government under clause (iv) shall not have any effect after the proclamation of emergency has ceased to operate."

(3) After sub-clause (2), the following sub-clause shall be added, namely:—

(3) In sub-section (3) for the words, brackets, figure and letter "(2A)", the following shall be substituted, namely:—

"(2A) or (2C)."

(4) After sub-section (3), the following new sub-sections shall be inserted, namely:—

"(4) Before an order under sub-section (1), (2) or (2A) is passed against any person, the Commissioner of Police or any officer authorised by him not below the rank of a Superintendent shall inform such person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of explaining those allegations. The Commissioner of Police or such officer may also examine witnesses, if any, which such person may produce, and any written statement put in by such person shall be filed with the record. Such person shall be entitled to appear before the Commissioner of Police or the said officer by an advocate or attorney for the purpose of explaining the allegations against him and for the purpose of examination of witnesses produced by him.

(5) The Commissioner of Police or the officer authorised under sub-section (4) may, for the purpose of securing the attendance of any person against whom an order is proposed to be made under sub-section (1), (2) or (2A), exercise all or any of the powers of a Court under sections 75 to 77 of the Code of Criminal Procedure, 1898.

(6) Any person aggrieved by an order made by the Commissioner of Police under sub-section (1), (2) or (2A) may appeal to the Provincial Government within thirty days from the date of such order.

(7) An order passed by the Commissioner of Police under sub-section (1), (2) or (2A) or by the Provincial Government under sub-section (6) shall not be called in question in any Court except on the ground that the Commissioner of Police or the officer authorised by him under sub-section (4) had not followed the procedure laid down in the said sub-section or that there was no material before the Commissioner of Police upon which he could have based his order or on the ground that the Commissioner of Police was not of opinion that witnesses were unwilling to come forward to give evidence in the public against the person in respect of whom an order was made under sub-section (1).

(8) Nothing hereinbefore contained in this section shall require any Police officer to disclose to the person against whom an order is made under sub-section (1), (2) or (2A) or to the Court the sources of his information or any fact the communication of which might, in the opinion of the Commissioner of Police, lead to the disclosure of the identity of any person or property."

Mr. S. C. JOSHI : Sir, I beg to move :

"In clause 2, sub-clause (1), after sub-clause (iii) proposed to be added, add the following new sub-clause and renumber the proposed sub-clause (iv) as (v):—

"(iv) for the words "by beat of drum or otherwise, as he thinks fit" the words "by an order in writing duly served on him" shall be substituted."

Question proposed.

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Mr. S. C. JOSHI : Sir, the section when my amendment is incorporated in it will read principally as follows :

The Commissioner of Police may by an order in writing duly served on him direct the person or immigrant.....

Now, Sir, the object of moving this amendment is this : the original section 27 of the Act was intended to be applied to a person or persons who were members of a gang or body of persons and it was not intended to be applicable to individuals only, and as such it could not be feasible to serve the order on members of the gang or body of persons individually. Therefore, it was but natural that the order should be communicated only by beat of drum or by such other manner as the Commissioner may deem fit. Now, however, the whole of the section is changed in this respect and it is not applicable to the gang or the body of persons. It will apply to individuals only. Of course, the individuals as such may be members of a gang or a body of persons, but to the whole body or to the whole gang as such it is not applicable, but it applies to the individuals and all such individuals may form a gang or a body of persons. In such cases, therefore, the orders passed must be duly served on the person against whom it is passed and it is not fair and proper that the order should be communicated to him by beat of drum. It may be that the person may not be found, may not be available ; in such a case, the order may be served on him in some manner by which the orders are duly served under the provisions of the Criminal Procedure Code. When an order is made against a person in respect of a public nuisance, how is the order to be served on him ? Section 134 of the Criminal Procedure Code provides for the service of the order or the notification on such person. It says :

“The order shall, if practicable, be served on the person against whom it is made in manner herein provided for service of a summons.

If such order cannot be so served, it shall be notified by proclamation, published in such manner as the Local Government may by rule direct, and a copy thereof shall be stuck up at such place or places as may be fittest for conveying the information to such person.”

The whole idea is that the person against whom the order is made must be informed in the best possible manner of the order having been made against him and a mere beat of the drum is not the proper method of serving the order against the individual. Then, Sir, I would like to invite the attention of this honourable House to the provisions of the Bill as contained in clause (4), by which sub-section (f) is sought to be added. In this sub-section (f), which is sought to be added to this section 27, it is provided that “before an order under sub-section (1), (2) or (2A) is passed against any person, the Commissioner of Police, or any officer authorised by him not below the rank of a Superintendent, shall inform such person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of explaining those allegations”. Now, Sir, even before the making of the order the law requires the order being in writing and the intimation of that order in writing being served or given to him. I do not think that it will be

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proper and fair to the man that, so far as the final order is concerned, it should be allowed to be given only by means of beat of drums. It is quite inconsistent, I submit, with the provisions of sub section (4) which is sought to be added to this section. Then there will be no possibility of the man not being available. It is the man who is in the City of Bombay, whose presence is known, whose movements are known and against whom when the information is received you make an order in writing and give it to him containing the general information of the material allegations against him and serve that order on him and thereby give him reasonable opportunity of explaining those allegations. If you make the final order after he has been heard, that final order should be duly served on him. My amendment seeks to have the order to be made in writing and to be duly served on him. I do not think that it must be served on the person even if he is not available. It must be served duly, but it should not be by beat of drum. If he is not found, then it should be affixed in some conspicuous place or places where he can get notice of the order being made against him. I do not know whether it was a deliberate thing that this was not done by Government, but I should think it was merely an oversight and might have escaped notice. That is my own feeling. It might be otherwise also; it might be the intention of Government that he should not get any notice in writing and that a mere general order communicated by beat of drum is sufficient. However, I think that it is not the fair method of dealing with such people. He is to be held responsible for breaking the order and thereafter, if he does not remove, he can be removed bodily under the provisions of sub-section (2A) and, if he returns, he is liable to be penalised for a long period under the provisions of 2A.

With these words, I move my amendment.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, I rise to support the amendment which has been moved by my honourable friend Mr. Joshi. As we see from the assurances that are given to us by the Government, they are anxious to see that the liberty of no person is curtailed unnecessarily or without giving him due opportunities of defence and convincing Government that such order should not be served against him. There would be no difficulty in finding the person, because the whole trend of this Act is that such person is to be caught hold of and he is to be deported. Under these circumstances, if he could be caught hold of, it would be in the fitness of things that he should be available for the service of notice. The amendment is quite clear and I hope Government will find no difficulty in accepting it.

With these words, I support the amendment.

The Honourable Mr. K. M. MUNSHI: Sir, the House will see that because the word "person" is used, body of persons is not excluded. Under the General Clauses Act, a person shall include any company or association or body of individuals whether incorporated or not. Therefore, the section also applies to gangs or bodies of persons who come to

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Bombay. That is not excluded by this section. For instance, for wandering sadhus who come down and squat on the Chowpatty, it does become necessary that intimation should be given also by beat of drum. Take another case. A man is produced before the Police Commissioner; he is let off on bail, but he runs away and is not found. There must be some way by which the order could be promulgated without personal service. But it also gives the Police Commissioner power that, if he thinks fit, he can do it in some other way which he thinks fit. Therefore, the words used are comprehensive enough to cover all the cases which are contemplated. Some of these gentlemen against whom action is taken might be sleeping on the pavement of the Mahomedali Road. Therefore, it was considered that in certain class of cases it might be necessary to give intimation by beat of drum. If the man is in custody and his address is known, then intimation would be given to him in writing or he may be sent for and the order read out to him, but we cannot exclude the words "beat of drum" in ordinary cases as the honourable member Mr. Joshi would put it. If the material allegations are given to him in writing, if he is allowed to appear and plead, he knows full well that the order is possibly going to be against him, but merely to restrict this clause to serve the order of removal upon him personally would become an impossibility on account of the class of persons to whom this section is intended to apply.

Therefore, I cannot accept the amendment.

Mr. S. C. JOSHI: Sir, I am sorry to find that the Honourable the Home Minister had to rely on the definition of "person" as given in the General Clauses Act. I do not think that the word "person" there is intended to include a gang or a body of persons of the type who are to be dealt with. The word "person" there will not necessarily mean a body of persons who have come together and formed themselves into an association. It does not matter whether that association has been incorporated or not. To such a body of persons it will apply, no doubt. But certainly it is not intended to apply to a gang or to a body of persons of the type described in section 27 of this Act.

Now, so far as the other thing is concerned, the Honourable the Home Minister says that we are dealing with a class of people who may be sleeping on the foot-path of Mahomedali Road, or Girgaum Back Road or some other road. Now if such a man is sleeping there and if he is not to be found by the police, how are you going to take action against him, and give him the benefit of sub-section (f) which is sought to be now added? That will be practically nugatory. There you make an order in writing; and what is the use of making an order in writing and giving him an opportunity of explaining those allegations, when the original order itself in writing is not to be served on him, or is that order also to be—

The Honourable Mr. K. M. MUNSHI: A word of explanation. The honourable member is mixing up the two stages. At the first stage

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the thing is to be served upon him in writing. Then the procedure under clause (4) has to be gone through. It is only the final order which has to be announced by beat of drum or in such manner as the Commissioner may think fit. The first order in writing is to be served upon him.

Mr. S. C. JOSHI: Then, of course, it solves the whole difficulty. If the first order is to be in writing and is to be duly served on him, then it will not be very difficult to serve the second order also in the same manner. I do not say that if the man has actually run away, the order should still be served on him, and then only it should become effective. Due service may mean not necessarily personal service. If personal service is not possible, then some other kind of service will be quite as good or as effective as personal service. But in the first instance it should not be by beat of drum. What the section now provides is that ordinarily it shall be by beat of drum, and it is only in extraordinary cases, if the Commissioner thinks fit, that it may be served in some other manner, because what is prescribed here is "the Commissioner may by beat of drum or otherwise". Therefore, the particular thing that is prescribed first is the usual thing that is to be resorted to. My objection is that ordinarily it should not be by beat of drum. Only in very exceptional cases, where the man is not to be found, you may resort to the method of serving this by beat of drum. Ordinarily, it should be by personal service. That will not be the meaning of the words as they stand now. Unless they are changed, the Police Commissioner will have ordinarily to follow the method of beat of drum. It is only when the method of beat of drum is not feasible—

The Honourable Mr. K. M. MUNSHI: Sir, I am quite willing to accept it if the honourable member proposes the amendment in this form, namely, "by an order in writing duly served on him, or, if the Commissioner thinks fit, by beat of drum". If the honourable mover withdraws his amendment, and another amendment is moved, it could be accepted.

The Honourable the PRESIDENT: The leave of the House should be obtained for amending the amendment.

Mr. N. D. DEODHEKAR: Sir, I move the following amendment to the amendment of honourable member Mr. Joshi:

For the words used in Mr. Joshi's amendment, substitute the words "between the words 'by' and 'beat of drum' the words 'an order in writing duly served on him or' shall be inserted".

Question put, and agreed to.

Amendment, as amended, put, and agreed to.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cwm* Surat):

3-30 p.m. Sir, I beg to move:

In clause 2 (2) 2C, sub-clauses (i) and (ii), for the words "peace or public tranquillity" substitute the words "public peace or tranquillity."

Amendment put, and agreed to.

Mr. S. C. JOSHI : Sir, I beg to move :

In clause 2 (2) 2C (iii) before the word "designs" add the word "unlawful".

Question proposed.

Mr. S. C. JOSHI : Sir, I have moved this amendment with a view to bring this section in consonance with the original wording of section 27. There also before the word "design" the word "unlawful" is there. Of course, the addition of the word "unlawful" will only make the matters more clear. Of course, what sorts of designs are to be penalised has been mentioned by the subsequent words, namely, calculated to disturb public peace or tranquillity.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar): Sir, I rise to support this amendment. The other day we heard from the honourable the mover of this Bill that the word "unlawful" was omitted because the designs of persons would be unlawful and still they ought not to come under the purview of the powers that are given to the Police Commissioner and he gave the instance of a satyagrahi who wanted to manufacture salt or something of that kind. Though the design in that case would be unlawful, still this section does not wish to give power to the Police Commissioner to catch hold of that person. That was the explanation that was given as to why this word was omitted. But as we have got an assurance yesterday from the Honourable the Home Minister that the Police Commissioner will not use these powers against persons who are engaged in political or social work, it is obvious that these powers will not be used against the satyagrahi who is having designs of unlawful nature technically ; and further on he also assured us that when a satyagrahi takes to a particular action of breaking any law, he would not mind what punishments are meted out to him. On the contrary, he would welcome it. I therefore submit that the addition of this word need not be taken objection to by the Home Minister, as the satyagrahi will not be covered by this. Sir, I support the amendment.

The Honourable Mr. K. M. MUNSHI : Sir, I want the House to see the difference between the two sections. In the first instance, under the old section, any member of a body, who had any unlawful designs, could be removed out of Bombay for a space of two years. This is a permanent section. We, therefore, thought that the words were too wide and put in the words "is engaged or is about to be engaged" in the commission of certain offences which were mentioned in the said section. But here you will see that under clause 2C, first of all, either there must be an actual riot or an impending riot and the person, against whom this will be made applicable, will be a person against whom a reasonable suspicion exists that designs calculated to disturb public peace or tranquillity are entertained by such person. Therefore, it is not unqualified as is stated by the honourable member Mr. Deodhekar. At a time when a riot is either on or is impending, some persons may be entertaining designs which, though they may be lawful, may be calculated to disturb the public

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peace or tranquillity. Then it would be a case for the Police Commissioner to tell such a person "Well, my friend, you better take a month's holiday. You are entertaining certain designs. They may be perfectly lawful in ordinary times, but at the present time they are calculated to disturb public peace and tranquillity. Therefore, in view of the emergent condition in the city, I want you to go out." Supposing a religious procession, which is likely to disturb public peace or tranquillity, is intended to be taken through Kalbadevi Road; then the Police Commissioner can take action under this section. But I may assure the honourable member that there is no possibility of this section being used in a drastic manner.

I would, therefore, appeal to the honourable member to withdraw the amendment.

Mr. S. C. JOSHI : I also thought that it was not necessary to move this amendment. I quite see that the design may be lawful, at the same time it may be of the type described here, namely, that it is likely to disturb the public peace and tranquillity.

Sir, I beg leave of the House to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr. S. C. JOSHI : Sir, I beg to move :

In clause 2 (2) 2C (iii) for the words "by beat of drum or otherwise, as he thinks fit" substitute the words "by an order in writing duly served on him."

The Honourable the PRESIDENT : What I was suggesting is that in the prior amendment can we not add the words—

Mr. S. C. JOSHI : That will be to the Act and this amendment applies to this clause only. Sir, may I ask for permission to modify my amendment to some extent ?

The Honourable the PRESIDENT : The amendment to the amendment is : For the words used in the honourable member Mr. Joshi's amendment, substitute the words "between the words 'by' and 'beat of drum' the words 'an order in writing duly served on him' shall be inserted." I will now put the amendment to the amendment to the House.

Question put, and agreed to.

Mr. S. C. JOSHI : Sir, I want to know whether in view of the fact that the amendment to the amendment has been put to the vote and carried, I should withdraw my amendment. That is my doubt.

The Honourable Mr. K. M. MUNSHI : Sir, I wish to make one point clear. The words as amended and put to the House and carried run as follows :

"by an order in writing duly served on him or"

Therefore, I think this should be done.

The Honourable the PRESIDENT: The honourable member Mr. Joshi wishes to have leave of the House to withdraw—

Mr. N. D. DEODHEKAR: Sir, if my honourable friend Mr. Joshi withdraws the amendment, then the basis of my amendment falls down, because that amendment as amended by my amendment should stand.

The Honourable the PRESIDENT: The better course seems to be that I will put to the House the amendment as amended. I think that will cover everything because the original amendment stands when amendment to that amendment is carried. Now, I will put to the House the original amendment as amended. It would run like this:

"In clause 2 (2) 2C (iii) between the words 'by' and 'beat of drum' the words 'an order in writing duly served on him' shall be inserted."

Question put, and agreed to.

Mr. S. C. JOSHI: Sir, I am not moving my amendments Nos. 4, 5, 6, 7, 8, 9, 11, 12, 13 and 14. I will move my amendment No. 10. I move:

"In clause 2 (4) of sub-section (5)....."

Sir, sub-section 5 appears to be a misprint. It should be sub-section (4).

"In clause 2 (4) of sub-section (4) for the word, 'may' substitute the word 'shall'."

Question proposed.

Mr. S. C. JOSHI: After my amendment is incorporated the sub-section will read as follows:

"..... The Commissioner of Police or such Officer shall also examine witnesses, if any, which such person may produce....."

What I want is that the witnesses produced by such person should be examined as a matter of course by the Commissioner. Of course, the word "may" has got the same force as "shall", but it is better if that is made clear in the Act itself. It should not be left to the discretion of the Commissioner to examine the witnesses or not to examine them. Therefore, I think this amendment is necessary.

Mr. T. M. GUIDO: The word "may" occurs in that sub-section in two places. It may be made clear as to which "may" the amendment refers to.

The Honourable the PRESIDENT: It is the first "may". Mr. Joshi by his amendment wants that it should be an obligation on the Commissioner to examine witnesses, and not on the man to call witnesses.

Mr. S. C. JOSHI: My amendment refers to the first "may" before the words "also examine".

Dr. G. S. MAHAJANI: Sir, I wish to support this amendment very heartily. It is not compulsory on the man to produce witnesses. If he

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has got any, he will produce them, but when he has produced the witnesses, it must be made compulsory for the Commissioner to examine them.

The Honourable Mr. K. M. MUNSHI : Sir, this point was also stressed in the lower House, but the atmosphere there was such that it was difficult to place an alternative proposal. The only reason why I resisted a similar amendment in the Assembly was that a man might produce hundred witnesses, most of whom might know nothing, merely to hamper justice. Now, so far as courts are concerned, they have certain powers. A man may bring in 50 witnesses, who may be of the same kind, and insist on their being examined. Therefore it was why the Government insisted on the word "may". But I am quite willing to have a provision similar to the one contained in section 257 which says :

".... the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing."

So that, the Provincial Government when it sits in appeal will know whether the application has been rejected for a good reason or bad reason. This will really cover my point as well, and also the honourable member's point. [*Interruption.*]

The Honourable the PRESIDENT : Is the whole of that portion to be taken ?

The Honourable Mr. K. M. MUNSHI : No, Sir ; it is being drafted, but that would be the substance. We are agreed as to the substance of splitting up the section into two parts and adding a proviso. The question is of form because we do not want to get into difficulties later. I shall be obliged, therefore, if you will permit us to pass on to the next amendment.

The Honourable the PRESIDENT : I shall have no objection, if the honourable the mover of the amendment has none.

Mr. S. C. JOSHI : I am quite agreeable, as that will be the best way to do.

The Honourable the PRESIDENT : The next amendment is in the name of Mr. Shah.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : Sir, I beg to move :

"In clause 2, in sub-clause (4), in sub-section (5), the following words shall be added at the end, namely :—

"After such person is brought before the Commissioner of Police, the Commissioner may release him on bail with or without sureties or may from time to time authorise his detention in such custody as he thinks fit for a period not exceeding 15 days at a time."

Question proposed.

The Honourable Mr. K. M. MUNSHI : Sir, I accept the amendment. It more or less clarifies the position which I stated before the Assembly. Section 31 of the Bombay Police Act says, whenever a person is arrested by a police officer, then the bail and various other things have been set out. Similar powers are given also under section 88, releasing a man on bail or bond, etc. It would be much better no doubt if, instead of leaving it to be read from the other sections, this clause is added here.

Amendment put, and agreed to.

Mr. S. C. JOSHI : Sir, I beg to move my amendment No. 14A in which I have made some verbal alterations. I move :

" After clause 2 of the Bill add the following new clause :

' 3. In section 128 of the said Act for the full stop at the end, colon shall be substituted and thereafter the following proviso shall be added, namely :—

' Provided that a person against whom an order is passed under sub-section 2C of section 27 shall not be liable under this section if he returns to the City after the proclamation of emergency has ceased to operate '."

Question proposed.

Mr. S. C. JOSHI : Sir, the reason is obvious that it is the intention that a person against whom an order is passed in case of emergency should get a holiday for the period of emergency and that he should not be completely debarred for a period of two years as contemplated in the section. It is merely to make matters clear that I have moved this amendment and I am much obliged to the Honourable Minister for having consented to accept this amendment.

The Honourable Mr. K. M. MUNSHI : Sir, I accept the amendment.

Amendment put, and agreed to.

Mr. S. C. JOSHI : Sir, I beg to move :

" After clause 2 add the following new clause :

' 3. This Act shall remain in force up to the 31st of May 1940 '."

The Honourable the PRESIDENT : There will be a slight alteration in the amendment as this will become clause 4, since the last amendment is accepted.

Question proposed.

Mr. S. C. JOSHI : The reason why I am moving this amendment is this. This is, after all, a new measure giving new powers to the Commissioner and to the executive authority. Let us see how these powers are being used by him. If we find that there has been no abuse or misuse of the powers which are given to him, then certainly it may be very easy to get this Act either made permanent or extended for a longer period. If, on the other hand, we find that there is an abuse of the powers by the executive authority, the Police Commissioner, then automatically the

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Act will come to an end. Secondly, Sir, if we give this power in this way, extend the life of this Act for a period of two years only in the first instance—

The Honourable the PRESIDENT: As a matter of academical interest, what happens if the section is repealed after two years? The old section will remain?

Mr. S. C. JOSHI: The old section will continue. This Act will remain in force up to 31st May 1940. The present section 27 will not be repealed completely for all time. It will be repealed up to that period only. That is what I think. I have myself considered it, and I think after that date the section will continue in the old form, that is, the present, without any alterations or amendments carried out by the present Bill.

Sir, the other and much stronger reason is this. After all, we are investing the Commissioner of Police with somewhat wide powers, which take away the right of a man to be brought before a court before his freedom is interfered with, and if the officer to whom such wide powers are to be given knows that the powers given to him are not permanent and that if he wants to have those powers extended for the future the matter will have to come before the Legislature, he will exercise those powers with greater discretion than he would otherwise do, because he will be always in the fear that when the matter is brought before the Legislature, cases may be cited in which he has abused the power or has exceeded the authority which is given to him, and, therefore, that fear will be a real check on the executive officer in the exercise of the discretionary power that is vested in him. That is also a reason why the life of this Act should be limited to a period of two years. It is not intended to limit the period to six months or one year; it is a longer period of two years. We shall then get experience of the working of this Act at the hands of the Police Commissioner for two years.

Then, Sir, the Police Commissioner had exceeded the authority given to him by section 27 of the Act of 1902. There is a clear admission that he had used this section, notwithstanding its clear language, against individuals who were not members of a gang. Therefore, when he had exceeded the authority given to him by section 27, of course, it will not be unreasonable to entertain the apprehension that this power that is to be given to him may be abused, or may be exceeded.

For all these reasons, I do find that it is necessary to have the life of this Bill limited for a period of two years. For this reason I have moved this amendment, and I hope it will be acceptable to the House. The Honourable the Home Minister has been very accommodating, and I do hope that he will accommodate us on this point also. With these words, I move the amendment.

Professor SOHRAB R. DAVAR (Bombay City and Bombay Suburban District): Sir, I rise to support this amendment. Yesterday in my

[Professor Sohrab R. Davar]

speech I urged the same point and requested the Home Minister kindly to consider this point. Yesterday perhaps he was not of that frame of mind which I should have liked him to be in. But perhaps the last 24 hours might have made a difference.

Our object is to have this Bill on the statute book for a temporary period as a sort of trial. The Honourable the Home Minister will watch its operation carefully, I have no doubt. At the same time, the executive officers in whose hands these extraordinary powers have been vested will be also on their trial and will see that it is not misused, lest the powers may be taken away by the Home Member by an amendment of the Act when it again comes up for confirmation before this House. If it has stood the test of time and it has worked very well, and if the Home Minister thinks that not only it should be confirmed but that some modifications either to strengthen the hands of the executive or to remove some powers are necessary, I can assure him that this side of the House will heartily co-operate with him in that, because this side of the House also will have watched the operation of this Act and would be quite convinced that it is a perfect document by that time. With these words, I would once again urge on the Honourable Minister to favourably consider this amendment. If not for two years, if he likes a longer period, he may have one year more. He should make it a temporary measure, and I am sure that is the wish of a very large number of people outside this House with whom I have had opportunities to talk. I have asked many lawyers who have been in criminal practice, and they have agreed that if it is a temporary measure, it would go a long way to keep the executive officers in their proper place.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar): Sir, I rise to support this amendment moved by my honourable friend Mr. Joshi. Yesterday we were told by the honourable member Mr. Pradhan that this measure was not brought in a panic, that the Government Benches are bold enough and there was no panic in their mind at all. But it was accepted by the mover of this Bill that this was an emergency measure, and he told us that he would have otherwise brought the Bill in the month of August at the Poona sessions, but as the emergency existed in Bombay on account of the riots, he has to rush this Bill through in this session. After all, if it is not a panicky measure, it is an emergency measure, and my honourable friend Dr. Mahajani yesterday gave us a quotation from Dicey's Jurisprudence that all such emergency measures should be again brought forward after a short period, to see whether the powers that are given to the police officers are properly exercised or not. We know what our police officers are. They possibly are the greatest law-breakers, and generally it would be much better if we keep the sword hanging on the head of the Police Commissioner, that his actions will be hauled up and criticised before this House after a period of two years. For these reasons, I support this amendment. Of course, the mover of the Bill will say that like Oliver Twist we are asking for more, but I hope he will not be like that harsh

[Mr. N. D. Deodhekar]

guardian of Oliver Twist, and refuse to accept reasonable amendments from this side. This is a very reasonable amendment, and, therefore, I would request him to accept it.

Dr. G. S. MAHAJANI (Poona *cum* Satara): Sir, it is scarcely necessary to repeat all that I said yesterday on the floor of this House. No one considers that this is a repressive measure. Not at all: and no one on this side of the House has accused Government of that intention. It is a measure which is necessary in the interest of public peace and tranquillity—I borrow the same words as have been used in the Bill itself. But when the executive is being armed with wide powers in the interest of public peace and tranquillity, and when to some extent the usual judicial procedure is being curtailed, the measures should necessarily be of a temporary duration and should be placed on the statute book permanently after they have been first tried. To add to my yesterday's arguments, I shall only say this that even the old satanic Government placed the Rowlatt Act on the statute book only for a period of three years. I have already stated that I do not compare this measure with that. Yet, we have ample grounds to press for the amendment that has been moved by my honourable friend, especially because Government are not losing anything at all by keeping this measure only limited to a period of two years.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I have heard the two lawyers as well as one professor, and I will tell them in their own coin that if they think that within three years these powers are misused by the Commissioner of Police or by any other subordinate officer, it is for them to come forward and say that these powers have been misused and therefore this amendment of the Act should be rescinded. Why should they not follow that procedure instead of now asking that the powers should be given in the first instance for only two or three years? I say, if after three years they find that they are misused, let them come forward and say that they are misused and this amendment of the Act should be rescinded. You must first come forward and say that they are misused and the powers should be withdrawn.

An Honourable MEMBER: By what procedure do you want us to do it?

Mr. B. N. KARANJIA: If you think the Commissioner of Police has misused the powers that are given to him, what prevents you from going to the Home Minister and saying that they are misused and therefore they should be withdrawn? According to you, you want the powers to be given for three years. We say that whether it is for three years or permanently, it makes no difference.

Khan Saheb A. A. KHAN (Central Division): Sir, I rise to support the amendment that has been moved by my honourable friend Mr. Joshi. From its very nature, the Bill that has been introduced is of a temporary character. It provides for an emergency and it also provides for certain

[Khan Saheb A. A. Khan]

powers being given to the Commissioner of Police for a certain purpose. The removal of what the Honourable Minister described as a *pucca maval* from the capital of this Province is a necessity, and although we mentioned yesterday various other methods of removal, he has insisted upon his own method being followed. What we say is, what cannot be cured has to be endured. But let the period of endurance be definitely laid down. As I have pointed out yesterday, on principle, the vesting of powers in an executive officer is most undesirable. You may do it for a short time.

The Honourable the PRESIDENT : The conversation across the table prevents me from hearing what the honourable member has been saying.

Khan Saheb A. A. KHAN : I was saying, Sir, that the vesting of such powers in executive officers may, under certain peculiar and exceptional circumstances be done, but it should be done for a short period only. We are now moving forward to a time when we expect all these powers to be vested in the judicial officers only and under these circumstances the life of this Bill should be as short as possible. It is a very reasonable proposal which we are making. Of course, what is reason to us is not reason to the other side, but I hope a time will come when they will begin to see the reason on this side. We, therefore, suggest that this Bill be limited to a period of two years only. If after two years the Home Minister finds that its life should be extended further then he could come to us with facts and figures; he can say that this Act has not proved an evil, as we apprehend it will prove, but that it has resulted in doing good. We shall then certainly and very willingly extend its period further; but, at this stage I think it would be desirable to limit it to two years and I hope the Home Minister will be good enough to accept our suggestion.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira) : Sir, I oppose the amendment. This Bill has been brought in the light of the experience of the past so many years. Had this Bill been brought in the light of the experience of the recent troubles only then I think the period of 2 years would have been a fair one. But since we know that in Bombay these troubles have become almost chronic, so much so that every year we are having riots and murders and crimes, it is high time that such a Bill were put permanently on the Statute Book. If Government accept the amendment of the honourable member Mr. Joshi it will mean that this Bill should not be put in force at all because no Police Commissioner would go to the length of putting into force the provisions of this Bill. Therefore, I say that the amendment is quite inconsistent with the spirit of the Bill that is brought before the House and so I oppose it.

The Honourable Mr. K. M. MUNSHI : Sir, the honourable member Khan Saheb Khan said that reasons on the two sides are of different characters, but he must have seen that Government is always willing to lug reason to its heart, whether it comes from this side or that. But the

[Mr. K. M. Munshi]

point is that this Bill is not intended to be an emergency measure. They believe it to be an emergency measure and, therefore, they say "Cut down its life to two years". It is very clever logic, but it is neither reason nor logic, because section 27 is a permanent section of the Act. Section 27 (1) will be substituted by this section now and it is not going to be removed. Suppose we withdraw this Bill; even then section 27 (1), with all the implications applied to it by the High Court, will remain on the statute book. That section can still be used. Therefore, it is not correct to say that this is a temporary measure, because it is not expected that immediately this Bill comes into force or within two years Bombay will cease to be visited by these mawalis. It is a chronic thing, as the honourable member Mr. Dadubhai Desai said. Therefore, you cannot give this Bill a trial for two or three years only. As a matter of fact, honourable members will have seen that the safeguards that we have put in now have considerably emasculated the power under old section 27 (1) and perhaps there is a feeling among some that we have sought the safety of the mawalis to such a degree that the section has become ineffective. Anything less than this would be to court disaster, and, therefore, it is not correct to say that this is an emergency measure. It is not correct to suppose that within two years we would have swept the city of Bombay of these mawalis. As a matter of fact, year after year hundreds of mawalis are being externed and still they come in. Therefore, it is not likely that we can do without this section. But if at any time a point arises that needs clearing or new safeguards can be devised, Government would be too willing to make any changes in the Act which would meet the exigencies of the situation. Both the Houses have done their best to put in as many safeguards as they possibly could, subject to the one consideration only that the witnesses cannot be produced before a court of law. You can produce witnesses, you can engage a lawyer, you can put in a written statement, you can appeal to the Provincial Government. The only thing which is not found here and which is found in an enquiry before a judicial tribunal, is that witnesses will not to be examined and cross-examined in a open court. That, by the very nature of the things, cannot be done. We have made this Bill as good as possible—the joint wisdom of both the Houses has made it a good piece of legislation that it is, and it would not be right to cut short its life to two years, unless of course a situation may arise at the end of two years when we may find that this Act is useless. We can then repeal it.

Mr. S. C. JOSHI : Sir, I am not looking at this measure as a temporary measure at all. I do say that it is a permanent measure. At the same time, I am not at all convinced, notwithstanding what the Honourable the Home Minister has stated, that we have improved upon it and we have got so many safeguards. I do feel that this Bill gives wider powers to the Police Commissioner than he possessed under the old Act. Therefore, it is necessary to see how this Bill works for two years. We know that

[Mr. S. C. Joshi]

even in the course of these 6 or 7 days we have been able to improve upon the Bill. We have been able to find here and there something which we can add to, alter or change. It may be that our experience of two years will be such that we will be in a position to improve much more than we have been able to do. It is for this reason that we want this measure to be limited to a particular time, so that the experience of two years will be really useful in determining whether it should remain as a permanent measure or whether it requires further alterations. We are told that if we find that our experience is such that we should get it repealed, we have got the power to come before the Legislature and get it repealed. But we know how difficult it is for the non-official members to get any Bills passed. It takes a very long time. So, if the thing can automatically change, it will be better.

The Honourable Mr. K. M. MUNSHI : Sir, I have nothing to add.

The Honourable the PRESIDENT : The question is :

After clause 2 add the following new clause :

"3. This Act shall remain in force up to the 31st of May 1940."

Question put. The House divided. Ayes, 9 ; Noes, 17.

Division No. 7.

Ayes.

CURRIMHOY EBRAHIM, Sir
DAVAR, Professor SOHRAH R.
DHODHEKAR, Mr. N. D.
JOSHI, Mr. S. C.
KHAN, Khan Sahab A. A.

MAHAJANI, Dr. G. S.
MAKAN, Khan Sahab MAHOMED IBRAHIM
TAMBE, Mr. MAHOMED AMIN WAZEEH
MOHOMAD
VIRKAR, Mr. M. B.

Tellers for the Ayes : Dr. G. S. MAHAJANI and Mr. M. B. VIRKAR.

Noes.

ATAWANE, Mr. A. M.
BHOSLE, Mr. M. G.
DESAI, Mr. DADUBHAI P.
DESAI, Mr. NARSINGRAO S.
DESAI, Sardar Rao Bahadur CHAN-
BRAFFA B.
GANDHI, Mr. RATILAL M.
GUTDO, Mr. T. M.
HALDIPUR, Mr. S. R.

KARANJIA, Mr. B. N.
MARWADI, Mr. P. S.
MEHTA, Mr. CHINTUBHAI L.
MEHTA, Mr. HANSA JIVRAJ
POTDAR, Mr. B. B.
PRADHAN, Mr. R. G.
SHAH, Mr. SHANTILAL H.
SOMAN, Mr. R. G.
STONES, Mr. FREDERICK

Tellers for the Noes : Mr. SHANTILAL H. SHAH and Mr. S. R. HALDIPUR.

The Honourable the PRESIDENT : The amended amendment which is now drafted is as follows :

"In clause 2, sub-clause (f), in new sub-section (f)—for the words beginning with 'The Commissioner of Police or such officer' and ending with 'may produce, and' substitute the following words :—

'If such person makes an application for the examination of any witness produced by him, the Commissioner of Police or such officer shall grant such application and examine such witness unless, for reasons to be recorded in writing, he is of opinion that such application is made for the purpose of vexation or delay'."

[The President]

In view of this amendment I think it will be better for the honourable member Mr. Joshi to withdraw his amendment.

Mr. S. C. JOSHI : Sir, I beg permission to withdraw my amendment No. 10.

Amendment, by leave, withdrawn.

Mr. S. C. JOSHI : Sir, I beg to move :

"In clause 2, sub-clause (4), in new sub-section (4)—for the words beginning with 'The Commissioner of Police or such officer' and ending with 'may produce, and' substitute the following words :—

'If such person makes an application for the examination of any witness produced by him, the Commissioner of Police or such officer shall grant such application and examine such witness unless, for reasons to be recorded in writing, he is of opinion that such application is made for the purpose of vexation or delay'."

Question proposed.

Mr. S. C. JOSHI : Sir, I do not want to make any long speech on this amendment, because the principle is that the Commissioner of Police should ordinarily examine all the witnesses produced by such a person, but at the same time, it must not be also a facility afforded to such a person to unnecessarily drag on and continue the whole inquiry for unreasonably long time and for that purpose safeguards are necessary and a safeguard has been provided for by this amendment.

Amendment put, and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

The Honourable Mr. K. M. MUNSHI : Sir, I move that Bill No. XIX of 1938 (An Act to amend the City of Bombay Police Act, 1902), as amended, be read a third time and passed.

Question proposed.

Mr. SHANTILAL H. SHAH : Sir, I beg to move that in sub-clause 2 the number 2C should be in brackets. Sub-sections (2A) and (2B) are in brackets, and for the sake of uniformity, I think 2C should also be in brackets.

Dr. G. S. MAHAJANI : Sir, I suggest that it should be in capital italics, because sub-sections are numbered in capital italics as (2A) and (2B).

The Honourable the PRESIDENT : Does the honourable member Mr. Shah wish to move this as an amendment ?

The Honourable Mr. K. M. MUNSHI : Sir, I do not think that is necessary. It can be done without an amendment.

Question, "That Bill No. XIX of 1938 be read a third time and passed," put, and agreed to.

The Honourable the PRESIDENT : Bill No. XIX of 1938 is read a third time and passed.

**BILL No. XVIII OF 1938 (AN ACT TO AMEND THE BOMBAY
RACE-COURSES LICENSING ACT, 1912).**

The Honourable Mr. K. M. MUNSHI: Sir, I beg to introduce Bill No. XVIII* of 1938 (An Act to amend the Bombay Race-courses Licensing Act, 1912).

The Honourable the PRESIDENT: Bill No. XVIII is introduced.

The Honourable Mr. K. M. MUNSHI: Sir, I beg to move that Bill No. XVIII of 1938 (An Act to amend the Bombay Race-courses Licensing Act, 1912) be read a first time.

Question proposed.

The Honourable Mr. K. M. MUNSHI: Sir, I have very little to say with regard to this Bill. Whatever I had to say, I said it in the Assembly and the Assembly practically unanimously accepted this Bill. The position of the present law is stated in the Preamble of Act No. III of 1912 and the words are "the regulation of horse-racing." Section 4(2) of that Act says:

"...subject to such conditions and for such period as he may think fit."

Government propose to impose several conditions on the Western India Turf Club and in order to leave no doubt for even the most ingenious of lawyers to find fault with the section, it became necessary to elaborate that clause and put down the conditions as are mentioned in sub-clauses (a), (b), (c) and (d). Really speaking there are four broad heads: one is the payment of licence fee; the other relates to the stakes for different kinds of horses; the third relates to jockeys; and the fourth relates to other matters whichever may not be covered by the first three. Therefore, this is a very comprehensive amendment and the reason of it shortly put is this. The only justification to giving legislative sanction to a race-course is that it provides an opportunity for improving the breed of the horses of the country. That was the argument again and again put forward in the old days by Government whenever this matter was challenged. But the only result of all this cry for the last several years was that up to a few months ago, only 4 per cent. of the stakes were given to Indian horses, 20 per cent. to Arab horses and the rest was given to Australian or English horses. A few months ago, 4 per cent. was raised to 6 per cent. That means at that rate of progress, before 100 per cent. come to Indian horses, it will be about 2 or 3 centuries or a little more. Government are now negotiating with the Western India Turf Club on the basis of certain terms which they propose to impose in the licence itself. As regards the licence fee, Government at this time propose to impose a licence fee of three lakhs in addition to the tax of 12 lakhs which the Turf Club is paying. As regards the stakes for Indian horses, it proposes to have a five years' programme beginning with 12 per cent. this year, that means doubling the existing stakes—and reaching up to 45 per cent. in six years. Of course, horses cannot be

* Appendix 10.

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produced like mushrooms or pieces of silk or cotton. They must take time and even race-winner parents cannot invariably produce a race-winner son. So we must also have to take into account the forces of nature. Therefore, time must be given to have sufficient Indian horses in order that the prices of Indian horses may not go up unnecessarily; but after considerable examination, Government feel that 12 per cent. is sufficient increase and after three years it would not be difficult to have 45 per cent. of Indian horses.

Then comes the question of jockeys. At present 45 jockeys for riding horses for 37 days make 4 lakhs of rupees a year and really speaking there are no facilities for training Indian jockeys and the conditions put are, compared to what the conditions are for an English or Australian jockey, very hard. Government propose to insert certain conditions in the licence laying down that at least one race every meeting should be ridden by riding boys and apprentices and that licences should be given to Indian jockeys under certain terms which would put them more or less on the same level as foreign jockeys.

These are the two main suggestions which are being discussed and it is expected that the Western India Turf Club will not create difficulties in the way of accepting it. It is a very curious institution. It is a public joint stock company, but it has no shares. The membership as in an ordinary company is not open to the public. There are club members and stand members. The club members who have got the full control in their hand are only 350. Stand members, that is, people who generally go to see the races, are about 1,600 or thereabouts, but really the whole control is with the club members. It is a very narrow group and is composed predominantly of Europeans and Government have asked the committee to agree to recommend to their General Board that the club membership be raised from 350 to 500 at least. According to the articles of association, the club member does not bring in any capital at all. He merely brings in his normal fee. If the company goes into liquidation, each member gets a large slice of profits, or if there is a loss, each member will pay loss only to the extent of one rupee. Really speaking, whatever profits the Club makes and which in the event of liquidation these members will claim to share, arise out of licences given by Government and, therefore, Government cannot treat the Western India Turf Club except as a kind of trustee for the purpose of seeing that the breed of Indian horses is improved and Indian jockeys are trained.

I forgot to mention one point to the House. One of the terms put forward by Government and on the basis of which discussion is going on with the Club, is that the Club should maintain a school for training jockeys. So in the result, within 5 years, the Club will be substantially Indianised, both from the point of view of personnel and with regard to its activities. This Bill is brought forward in the hope that it will meet the same unanimous reception which it met in the Assembly.

Mr. B. N. KARANJIA (Bombay City cum Bombay Suburban District) :

4-00 p.m.

Mr. President, I cannot vote for the proposition put forward by the honourable member although I am not going to oppose it, but I want to know from him about the starred questions which I sent to him and which are not replied yet. In the absence of those starred questions being replied, I think, it is not quite in consonance with what he has said and I cannot subscribe to it. Sir, may I know from the Home Minister when my starred questions will be replied to.

The Honourable Mr. K. M. MUNSHI *rose*.

The Honourable the PRESIDENT : I cannot allow that even if the Honourable Minister is willing to give the information.

Mr. B. N. KARANJIA : The whole thing is covered by the questions.

The Honourable the PRESIDENT : I am sorry. The honourable member can make his enquiries afterwards.

Mr. B. N. KARANJIA : I have said that I cannot congratulate the Honourable the Home Minister as I did yesterday on grounds and reasons which are manifold and at the same time, I do not understand the policy enunciated by the Congress Ministry. They say now that this is a sport and the Home Minister as a sportsman intends entering into certain agreements with the R. W. I. T. C. [*Interruption.*] Because he is communicating with them for certain taxes to be increased. He has said that the Club was fundamentally meant for horse-breeding and jockeys to be trained and so on, but what I say is that it is a gamblers' Race-course. Most of the goers there are gamblers and go there and play in the name of sport.

The Honourable Mr. K. M. MUNSHI : Why do you go ?

Mr. B. N. KARANJIA : I go only on hospital days to get money from them and to extort money from rich men's pockets and each time when the Hospital Day is given for the Hospital Fund, we collect about a lakh of rupees and that comes from the rich men's pockets.

I would say, Sir, that certain Governments are carrying on their business only conniving at certain things. Here I would like to mention one instance that the Portuguese Government at Macao near Hongkong in China connive at the smuggling of opium and thereby they derive vast amounts ; also they auction gambling dens just as we do in Excise and get large revenues. In Monte Carlo the same thing is going on. In the same manner, gambling is going on here and the Congress Ministry are doing this to get some lakhs of rupees. Of course, I am for the sport and if the races are run for sport, I have not the least to say and if certain modifications are brought in I would say that would meet the whole object of this Government. I find that this Act was enacted in the year 1912 and the Act is one scrap of paper and it contains only two to three or five clauses and nothing else. The quorum of the club is 20 while

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the members are hundreds. I think the Home Minister must have gone into the Secretariat and found this Act in a corner and brought about this change; for that I congratulate him. Of course, if it is run in the spirit in which it is enacted I agree with him, but what is going on now. I am complaining about the present circumstances under which the Club is run. That is my complaint. Major-General Sir James gave a talk at the Rotary Club and he said that there is a great scope for Indian-bred horses to be run on the races and that has been supported by Sir Homi Mehta as well as by Mr. Sultan Chinoy and I do not know why only 4 per cent. is given to these Indian-bred horses.

Mr. F. STONES : There were not enough Indian-bred horses available.

Mr. B. N. KARANJIA : Therefore, if it is increased then I shall have no objection. I think from my point of view when Government want monies for hospitals no difficulty would arise if the moneys are spent to alleviate the sufferings of the poor. Even for the hospitals when we collected about Rs. 50,000 by lotteries, the Legal Remembrancer opposed it and the money was refunded. Here, in the name of sport this thing is going on. Why not Government may run this race-course with the sole object of giving these monies to anti-tuberculosis hospitals for which people are demanding money ? If Government think that they can get more than they expect from the taxes of the Turf Club then it is their bounden duty to run it themselves and to give these monies to hospitals. If it is not possible then I think that it is in the fitness of things and the Home Minister and the Excise Minister know very well how to auction and to give the licences to the highest bidder in the country. Why that cannot be done ? And the monies should be spent on hospitals for the suffering humanity. Here we find that lakhs of rupees are made as profits. I do not know exactly, but I am told that every year the net proceeds come to about 10 lakhs of rupees. I do not know whether I am correct.

Mr. F. STONES : It is incorrect.

Mr. B. N. KARANJIA : It is incorrect, but then the Municipal Commissioner went for assessment purposes and he found, if my information is correct, that certain profits were not disclosed. But he passed them in the end. I can assure the Home Minister that if an independent man goes to examine the accounts he can prove more profits.

The Honourable the PRESIDENT : Are there no auditors ?

Mr. B. N. KARANJIA : There are auditors, but as a business man I can say that an auditor bases his report on what is placed before him and signs the balance sheets after some inquiries. You may not be knowing that some window dressing is done and it can be manoeuvred in the manner one chooses. I do not blame the auditors, I do not throw any slur on them, but this thing is happening and it is bound to happen. My honourable friend Mr. Stones says that the profits are not large. I would point out to him that 10 lakhs is not a small sum.

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From all these points I can only say that according to the Congress policy this race-course should be dealt with not as if it is a gambling house pure and simple, but as an institution for encouraging Indian horse-breeding, an institution for training up Indian jockeys, and members should be added as Club members and so on and so forth. All these points are brought out in the starred question which I have sent. On all these points, I am not going to oppose the Bill, but on principle I do not agree with it. That is my objection.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar): Sir, I rise to make a few observations on the Bill. The Bill is introduced by the Home Minister with the recommendation that it was passed without opposition in the Legislative Assembly. It seems that he was tired of the tooth and nail opposition to the two other Bills and the lightning speed with which he got this Bill through made him glad over it and he makes a recommendation to us that it should be passed in the same way here.

I want to look at the Bill from a somewhat different angle and I observe in the first place that Government have outgrown their prejudices in accepting tainted money and have become callous as to the source from which money could be got. A relevant question on this point would be as to whether Government regard gambling as an evil to be stopped or not. We are told that the Turf Club would be indianised in five years, that there would be schools for training up Indian jockeys and all such sorts of things. But we refuse to fall for those things. We see the evil effects of gambling, and we want to know from the Government if they do not regard gambling as an evil to be stopped at all costs. I will make my position clear by giving one instance. If we ask the Government as to whether drinking is bad and whether it should be stopped or not at once, the ready reply will come that it is a bad thing or an evil thing and that it must be stopped. We shall never be faced we hope with any proposal of a scheme of indianising whisky. Similarly, to make my position further clear, if we ask the Government side as to whether prostitution should be stopped or not, they will at once jump up and say it must be stopped, and no proposal would be coming forth for indianising the too notorious lanes in Bombay. Therefore, I want to ask this point blank question to Government, whether Government regards gambling as a vice and wish to stop it or not. We are told that racing will encourage horse-breeding. But if horse-breeding is to be encouraged only by encouragement of gambling, we do not want horse-breeding. Fortunately encouragement of gambling is not the only method of getting good breeds of horses. We know that the Viceroy has got his schemes for improving the breeds of our cattle, but he has never asked us to have bullock cart races? Still he hopes and we hope with him that we can improve the breeds of our cattle without any such racing and consequent gambling. I have never visited a race course and I do not know much about it. But I want to ask this Government a categorical question as to whether they regard gambling as an evil and wish

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to stop it or not. Sir, I am not enamoured of the money that they are going to get by it.

Mr. F. STONES (Presidency): Sir, perhaps it will be advisable and desirable if the members of this House have some information from one of those 350 apparently undesirable members of the Royal Western India Turf Club. I must admit that I am one of those wicked men who occasionally indulge in a mild gamble. I am also a European, and judging from some of the comments made by one or two members of this Council, even that is wicked. I am afraid I cannot apologise in either case. The cap fits and I am pleased to wear it.

I do claim to know something of horse racing in India, but, first of all, I want to make it clear that I am speaking in my personal capacity. I have no authority to speak from the Royal Western India Turf Club of which I am a member, neither do I stand here now and speak for the whole of the Europeans in this Presidency, that is to say, my constituency. However, I have bred horses, I have owned horses, and I have also had small bets on them and I am none the worse for it. But I have many friends who have lost several millions who have not gambled on race horses, but who have lost their money with the pleasures of *satta* and in other forms of gambling. I think we are all agreed that gambling is a bad thing. I personally am against it, but I happen to remember that we are all human beings, with our little frailties and of all the frailties probably a little flutter on the race course is as good a way of letting off steam as any other.

I have the feeling that the Government ought to take up the idea of the late General Booth of the Salvation Army, who, when offered a very large sum of money for his work by a well known brewer, was asked to refuse what some people considered tainted money, to which he replied "I shall be pleased to use all their money for useful purposes".

I think Government need have nothing on their conscience in accepting money from the Turf Club. No doubt they will use it for—I do not like to use the term "nation building activities"—schemes of social expansion. Anyhow, gambling does occur and racing is admittedly more for gambling than for the improvement of horse breeding.

I am not opposing the Bill, but I would like to ask Government to take particular care, when they formulate rules and regulations under this Bill, that they do not neglect certain dangers which I see standing out rather prominently. The first is that they do not overload the taxation on the Turf Club to such an extent that it will drive away people to other and worse forms of gambling. There are other and worse forms of gambling. I hope Government will so arrange matters that a happy medium will be struck. It is true that if a man wants to gamble, he must pay for it, but do not make him pay so much that he will go in for other forms of gambling which may be more harmful to him and give him a worse deal.

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The next danger is the danger of following the advice of so many well meaning people who unfortunately in many cases are sycophants and who are using the present position to worm themselves in with a view to joining in the spoils of office. The Congress, or rather, the Government—I must apologise, for I am getting into the habit of calling this the Congress Government—Government should in my opinion take care that they carefully scrutinise the advice which is given to them in framing the rules and regulations. They have recommended the discontinuance of the conferring of honours by His Majesty's Government, and I would certainly like to see that there is no development of political jobbery in the appointments to offices connected with the administration of the Royal Western India Turf Club.

The third item I want to raise is to remove the impression that the European majority among the members of the Western India Turf Club are the cause of the holding back of the development of Indian thoroughbred race horses. As a matter of fact, with the notable exception of the Maharaja of Mysore, practically the whole of the breeding of good Indian bloodstock in this country has been done by Major Vanrennen and Colonel Cole and Sir Victor Sassoon under the EVE BLOODSTOCK Scheme. I have personally been connected with the EVE BLOODSTOCK Scheme and, were it not for that scheme, there would not be today more than five horses per country bred race if distributed over all racing centres in India.

Sir Victor gave Rs. 50,000 and 20 mares. In addition to that we have given a number of stallions, one of them second in the Derby and all of them far better horses than have ever been imported into India in the past. There is no doubt that the quality of Indian bred race horses is improving and will continue to improve, but with the exception of the Maharaja of Mysore, practically the whole of the development has been by Europeans and not by people who are criticising but doing nothing practical.

There are only one or two other small suggestions. I would suggest that in considering the rules, you might go into the question as to whether brood mares should be imported into India with foals in utero. Just at present the position is that the progeny of brood mares imported into India carrying the foal in utero are not classed as Indian bred, and it would expedite the breeding of good Indian horses if a rule was made that when any brood mare is imported into India with foal in utero, the foal should be classified as an Indian horse or as of a special class, so that it would lead to the introduction of really good brood mares into India, covered by first class sires.

I hope Government will see that the scheme is properly organised and is worked under the advice of men who know what horse racing is and who are really interested in the development of racing and horse breeding on sound lines.

The Honourable Mr. K. M. MUNSHI : Sir, my honourable friend Mr. Karanjia argued himself out in one breath. He said that Government should undertake the running of the Western India Turf Club, and in the other breath he asked "Why should Government permit this gambling?" Anyway, he seemed to be very much irritated at the fact that I was not able to give him certain replies to his starred questions. I wish I could have done it, but he asked for information which was not in my possession. Therefore, as he has successfully destroyed his own argument, I will not take up the time of the House by saying anything about his arguments.

I think I must notice the arguments put forward by my honourable friend Mr. Stones, though at the same time I may assure the House I do not want to take up the time by discussing the ethics of gambling. This is not the occasion for it. It is a small Bill and we need not go into the morality of it in discussing such a small measure. As regards the suggestions that have been made by my honourable friend Mr. Stones, I entirely agree with him that taxation must not reach a stage when the income might be diminished and in turn the return from taxation may suffer, if that is what he meant. In this connection, I may assure him that I have personally examined the accounts of the Western India Turf Club, and so has a committee of competent officials for the purpose, and the opinion is that the Western India Turf Club has a huge margin of items which could be economised in. Its expenses are on a scale which would make any Government Department, even the Public Works Department, shudder. The officials are paid—almost all, except one, are Europeans—on a scale before which the Lee Commission concessions to the Indian Civil Services shrink into nothing. Therefore, I entirely disagree with him if he thinks that the addition of a burden of 3 lakhs is going to hit the Turf Club to the slightest extent. It is a burden which they can easily bear, and they can bear a much larger burden if they introduce economy, which is so essential for a proper running of this institution.

The second point that he urged was that Government should discard the views of sycophants, and they should not hand the running of the Club over to such people. I would not have touched this point, but there is a feeling among members, particularly the European members of the Western India Turf Club, that the enquiry that was made and the results which were achieved by Government were the result of information given by persons whom he characterised as sycophants. But I may assure him that the investigation was carried on on the basis of the facts supplied by the Western India Turf Club itself. Not only that, but I personally interviewed a couple of dozen experts outside the Committee and, after the closest scrutiny of the subject, I came to the conclusion that the affairs of the Club require to be placed on a better footing all round if it is to be maintained as an institution with the licence given by a popular Government and under a legislation which a popular legislature can scrap any moment. Whatever may be the reasons under the old regime, I do not want to go into it, but I can assure every racegoer,

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to whatever race he may belong, that the public in India will not tolerate any turf club if it is going to be nothing else but an institution for subsidising horses bred in foreign countries or if it is going to be an institution for transferring lakhs of Indian money into the pockets of the foreigners. Otherwise, there is no difficulty. I am not free to give the facts and figures which I came to know as a matter of confidential enquiry, but the less said about this matter that the Government's opinions are coloured or influenced by any set of people, the better for the Western India Turf Club.

Then, Sir, something was said about horses. On the Club's own figures, there are 147 Indian horses today and every year 100 horses are likely to increase. The result will be that in six years' time we will have at least 500 horses, that is, the same number as of foreign horses in India for which, as I said, so much as 74 per cent. of money is being spent. Therefore, to give stakes to the extent of only 45 per cent. for the same number which is now getting 74 per cent. cannot be said to be unjust or in any way unfair. Even today it is said, "147 horses are not enough to bear the increase of 12 per cent. which has been suggested." Well, I have studied the whole question and not only in my opinion but in the opinion of everybody, except the representatives of the committee which came and saw me, 15 per cent. is a burden which can be easily borne; but only as a matter of compromise, in order not to alienate the goodwill of the committee which was trying its best to meet with Government wishes, 15 per cent. was reduced to 12 per cent. In this age or in future times no Government worth its name will be prepared to patronise foreign horses bred at the cost of our people,—gambling or no gambling. (*Interruption*). The Act was passed in 1912. The Western India Turf Club is flourishing, I do not know for how many years. It is making 51 lakhs of rupees a year and it is throwing as charity to Indian horses about a lakh of rupees. Is this encouraging Indian horse breeding? Therefore, all that Government ask, and ask with valid reasons, is that the attitude of the Western India Turf Club should be altered in this respect, and the sooner they realise it the better that Indian money is to remain in India, gambling or no gambling, horse racing or no horse racing. If the money is to go out of India because we want horse racing, no Indian Government will be prepared to sanction it. Somebody said "what about bullock cart racing"? Well, I shall welcome bullock cart racing if 51 lakhs of rupees are going to be spent on it so that the money may remain in India and the breed of the bullocks may improve. Horse racing is a foreign thing which has come to us; but rightly or wrongly we have acquired the taste. We have acquired the taste for so many European things. We have come to like asparagus; we have come to like European coffee, and so you may ask "Why not like European racing?" (*Interruption*). Gambling is ancient; even in the time of the Rigveda gambling was going on. It is not the monopoly of the west; it is a nearly universal affair. But, so far as this institution is concerned, if it has to remain in the country, the sole objective of it should be the

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breeding of Indian horses and, above all, an institution which is paid for by Indian money should see that the Indian money remains in India and in the management of it there is a predominant voice of the Indians.

With these words, I hope that the House will see the necessity of a legislation of this type.

Question, "That Bill No. XVIII of 1938, an Act to amend the Bombay Race-courses Licensing Act, 1912," be read a first time, put, and agreed to.

The Honourable the PRESIDENT: It is time for adjournment now. In fact we have taken two minutes more.

Mr. S. C. JOSHI: Sir, if this is the only Bill that is to be taken today —

The Honourable the PRESIDENT: Well, as regards the Education Bill, which is next on the item, I find that the Honourable the Prime Minister wants to save time and, therefore, he wants to introduce the Bill and also address the House today. My idea is that in order to save time that can be done. Then such of the members who are willing to take part in the debate on the first reading today may do so. After that we will adjourn and the Bill will be taken up tomorrow and the amendments will be moved tomorrow. So, it will save a considerable time.

(The House re-assembled after tea at 5-5 p.m.)

The Honourable Mr. K. M. MUNSHI: Sir, I move that Bill No. XVIII of 1938 (An Act to amend the Bombay Race-courses Licensing Act, 1912) be read a second time.

Question put, and agreed to.

Bill read clause by clause.

Clause 1 (*Short title*) ordered to stand part of the Bill.

Clause 2 (*Amendment of preamble of Bom. III of 1912*) ordered to stand part of the Bill.

Clause 3 (*Amendment of section 4 of Bom. III of 1912*) ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

The Honourable Mr. K. M. MUNSHI: Sir, I move that Bill No. XVIII of 1938 (An Act to amend the Bombay Race-courses Licensing Act, 1912) be read a third time and passed.

Question put, and agreed to.

The Honourable the PRESIDENT: Bill No. XVIII is read a third time and passed.

**BILL No. XV OF 1938 (AN ACT TO AMEND THE BOMBAY
PRIMARY EDUCATION ACT, 1923).**

The Honourable Mr. B. G. KHER : Sir, I beg to introduce Bill No. XV* of 1938 (An Act to amend the Bombay Primary Education Act, 1923).

The Honourable the PRESIDENT : Bill No. XV of 1938 is introduced.

The Honourable Mr. B. G. KHER : Sir, I move that Bill No. XV of 1938 (An Act to amend the Bombay Primary Education Act, 1923) be read a first time.

Question proposed.

The Honourable Mr. B. G. KHER : Mr. President, this is one of the most important Bills that have been introduced either in the Lower House or in this House since the formation of this House. I say so because the consequences of any change in our educational system are bound to affect the future of our country to a very great extent. Education is the most important subject from the point of view of the advance of any nation and in a country like ours, where at present there is so little of education in the country at large, it must be our endeavour to see that all efforts are made both in the supply of finances, in the improvement of the administration of the machinery of imparting education, in the devising of proper curricula and in every other matter pertaining to education so that in as short a time as possible we may be able to make primary education universal, free and compulsory in our country. After the Montagu-Chelmsford Reforms education became a transferred subject and it was hoped that our country would make very great progress in the spread of education. But we found that owing to the introduction of dyarchy sufficient funds were not available for the purpose of education. What I believe is that that was not the only reason, although it was a very important reason, why we have not yet succeeded in achieving our object. The other reason is that the changes that we introduced in our administration of education, which was even then by no means perfect, have unfortunately turned out to be such as are not suited to the needs of our country. A Committee was appointed to consider and report on the question of the introduction of free and compulsory primary education in the Bombay Presidency. That Committee brought out an elaborate report and to give effect to and to implement the recommendations of that Committee, the Bombay Primary Education Act of 1923 was enacted. It is with a view to amend that Act that we are now introducing the present Bill in this House.

I will now briefly point out what has induced us to think that any amendment is necessary ; secondly, what are the principal changes that we propose to introduce into the Act ; and, thirdly, what we hope will be the result of these improvements.

Under the Act of 1923 the position of the Minister of Education was not very fortunate. The Chandavarkar Committee had recommended

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that the control of primary education should be transferred in as large a measure as possible to the local authorities. If we turn to their recommendation under the heading "Control of Primary Education" we see these remarks :

"The municipalities already manage their own schools, subject to certain restrictions about the pay and status of the teachers, which are necessary as long as teachers in Government, Municipal and Local Board primary schools belong to a common cadre and are interchangeable.

We are of opinion that a somewhat greater degree of freedom should be given to municipalities in this respect, provided that the interests of the existing teachers are safeguarded, and new teachers are given reasonable pay and security of tenure. This question will be discussed in greater detail later."

And they conclude :

"We are of opinion that the local education authorities, i.e., the District Local Boards and Municipalities, should be given as large a measure of control as possible in the management of primary schools, subject to the general control which Government must exercise."

That was one of their recommendations. Another recommendation was as regards educational officers and the District Education Boards, which are now known as School Boards. They observe :

"We consider that there should be an Educational Officer of the requisite qualifications and experience as Secretary and Executive Officer of the District Education Board who should be appointed by the Board, subject to the approval of Government. The Educational Officer should be the servant of the Board."

And they conclude :

"He should exercise such powers as may be conferred upon him by legislative enactment or by rules made under such enactment, which should provide also for the delegation by the Board of further powers."

In this connection it is also pertinent to note what they observe as to the efficiency of the whole system depending upon the efficiency of the Administrative Officer.

"It is not our intention that he should be able to act independently of the Board or contrary to its wishes, but he should carry out in detail the general orders of the Board. The control of the Board will be sufficiently safeguarded and the provisions we have suggested will allow of further powers being delegated to the Educational Officer of the Board if experience shows this to be desirable. It may be pointed out that the tendency both in England and the United States of America is for the influence of the permanent Educational Official to increase. The Secretaries of the School Boards constituted under the English Elementary Education Act of 1870 were usually men of no educational experience and have been described as being 'little more than head clerical officers,' while the Executive Officers of the Education Committees of the present local education authorities are almost invariably men who have been previously engaged in educational work. Increased efficiency has been the result of this change."

We all know how even in England I believe as large a percentage as 57 was not educated in the sense that they had not received primary education in the year 1870, and then the first Act of 1870, authorising local bodies to introduce compulsion at their desire, which may be described "optional compulsion" was passed. But later on, I think in about six years, another Act was passed in 1876 which made education compulsory

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all over the country and by the year 1882, a Committee which was appointed to investigate the question of the spread of primary education was able to report that education was being imparted to hundred out of hundred children of the school-going age. That was in 1882. We all know how our leaders and eminent public men have from time to time made incessant efforts with a view to make education compulsory, free and universal in our country and particularly the famous Bill and the famous resolution with which the name of the late Gopal Krishna Gokhale is connected must be familiar to every student of the history of education in this country. Unfortunately, even after nearly 30 years after Mr. Gokhale first drew the attention of the country to the very unsatisfactory state of affairs—this was in 1910 and we are now in 1933—the percentage of literate people is still, as we know, about 9 or 10. It is therefore necessary for any Government which wishes to improve this state of affairs to study and to find out what is wrong, what hinders the progress of education in the country and to this task this Government has turned all possible energy since it came into office and one of the reasons, we find, which came in the way of further progress was that the Provincial Governments, particularly, the Bombay Government exercised very little control over the system of primary education in the country. In one of the quinquennial reports, the Director of Public Instruction observes :

“The control now exercised by the school boards is very great, greater it is believed than in any other province in India and except for financial purposes, the supervision of the department has been reduced to a minimum.”

As the House is no doubt aware, the Hartog Committee appointed by the Simon Commission have, in their Chapter on the control and devolution of Provincial Government, made very important observations with reference to the Primary Education Act of the Bombay Government. I will not give you lengthy quotations, but one or two paragraphs to which I shall refer will show what their view on the changes introduced by this Act was :

“Viewing the position in Bombay as a whole, we think it is to be regretted that a system of primary education which had been framed on very sound lines should have been handed over to the control of local bodies without the insertion in the statutes or the rules of sufficient safeguards to ensure that Government working through the Ministers and the Education Department would be able, at least, to guide future development.”

And reviewing the work of the local boards and of the Primary Education Act, they further observe :

“We feel that for the healthy advance of primary education a change is desirable. It is obviously right that local affairs should be managed by local authorities and it is not unreasonable that in the early stages mistakes should be made by inexperience. But we are of opinion that education is a national service and the State cannot divest itself of its responsibility in this matter and all the more is this so in the parliamentary system of Government in which the Minister has very definite responsibility to a Legislative Council which votes the money and has the right to know how it is spent. If the goal of universal and compulsory education is to be reached, the Minister must be in a position to supervise and control where necessary the activities of local authorities.”

These were the observations which they made in the year 1929. Since then there has been absolutely no improvement in the working of the

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Act. The mistakes which it was thought would be made only at the initial stages are still being continued and made even in what we may now call the final stages of this Act, because after this House passes the Bill there will be many salutary changes introduced which, I hope, will improve the administration of the Education Department to a considerable extent.

Not long ago, another committee which was known as the Vernacular Education Committee of the Central Advisory Board of Education which met at Simla, has also reported on the question whether the provincial ministries of education have sufficient power of control or not in regard to primary education. This was a committee where the Directors of Public Instruction of all the 11 provinces were invited and I believe 9 out of them were present and this committee came to the following conclusion :

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“Complaints come from all provinces of laxity in various details of administration and of frequent action on grounds other than educational. Teachers are transferred, dismissed or appointed for personal or communal reasons, increments are not granted, payment of salary is often in arrears, departmental advice is ignored, relations with the education departments and their officers are strained, local bodies are apathetic. * * * * * There is, however, sufficient evidence to show that generally the administration is lax in many ways.”

And, referring particularly to Bombay, they observe :

“Some provinces have gone much further than others ; the Bombay Government, for example, retains very few powers indeed.”

As honourable members are no doubt aware, Bombay was practically the only province where Government ceased to exercise effective control over the primary schools through Government supervision and inspection. The Government inspecting staff was withdrawn and only one Assistant Deputy Educational Inspector was maintained in every district to conduct all the examinations and supply information to the department. He was the one officer that was left. The object of this Act, framed as I said on the recommendations of the Chandavarkar Committee, was to prepare and carry out schemes of expansion and to improve the system of primary education. We find that owing to two reasons this work which is and ought to be the principal work of the school boards has not been carried out at all. Those reasons are, in the first place, financial. The monies made available by way of additional cess on agriculturists were inadequate to launch schemes of universal compulsory education. The first reason, therefore, was the inability to finance the schemes of expansion and compulsion. The financial stringency of the Bombay Government was also another important reason whereby these bodies could not get the amount of money from the Government that might perhaps have been able to improve the situation, not very greatly but to some extent. The result was that instead of devoting their attention to their principal work, the school boards became arenas of communal intrigues and strifes and all the work that they bent their energies upon doing was the appointments of officers, the transfers of teachers and the

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number of other details of day to day administration, which the Chandavarkar Committee had hoped would be efficiently looked after by the Education Officer about whom they were so particular as to remark that on his efficiency and on the delegation to him by the board of further powers, so much of the good effects of the Act would depend. Not only were further powers not delegated, but it was found that even the powers that he had were almost rendered nugatory. As his fortunes depended on the whims of the members, owing to ordinary human weakness, these officers, in order to continue in the good graces of the members, did all that was expected of them, not necessarily in the field of education, but in other matters of local self-government such as fighting elections and helping members of the school board or the chairmen to make their own position in these bodies secure. The intentions of the framers of the Act were not given effect to. They were unable to exercise powers, which, in theory, they had, to good effect and in course of time experience showed that most of them had voluntarily surrendered their powers to the chairmen or to the school boards. The result on the administration was disastrous. The appointments and transfers of teachers became a matter almost of traffic in many of the school boards. Not a day passed when we did not get frantic telegrams from teachers. In one district after it was known that legislation was being introduced whereby the powers of these boards were to be curtailed, as many as 400 transfers were effected and today, from the district to which the honourable member Dr. Mahajani belongs, I am getting telegrams at the rate of half-a-dozen per hour as to teachers being dismissed. A general panic has set in in school boards. "Now that this great power of making appointment of teachers and transfers is likely to go out of our hands" they say, "let us make the best of it while it lasts." In fact, the administration of the school boards reduced itself to this power of appointing officers, of appointing supervisors, of appointing teachers and the intrigues and the communal strifes, and the disorder that generally resulted became almost a by-word in the history of the maladministration of the department of education in the country.

Therefore, Sir, when last year a resolution was moved that Government should forthwith make larger and larger grants for education and primary education should be made free, universal and compulsory, immediately, I first drew attention of the members to the fact that before any more money was spent on this purpose it was necessary to see that the money that was being spent was properly employed. We are told that there is so much wastage and stagnation in the department that 75 per cent. of the money that we spend is spent to no purpose at all. It is not prudent merely to allot more money although honourable members are aware that in this respect also Government have this time allotted as much as 34 lakhs of rupees for this purpose. It is not prudent, as I said, simply to think that all that is necessary is to make larger grants and then to sit quiet and hope that education will improve. We had, therefore, announced it as the policy of the Government that the system of education in the Province would be overhauled. the necessary

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improvements first effected in the administration of education and that thereafter with the advice of people who are competent to advise as to how the primary education, which is imparted in our schools, could be improved, Government will take all possible steps to extend and to improve it. The amendment of this Act, therefore, is the first step in this direction. I have already told the honourable members that in addition to the administrative officers, the appointments of supervisors and teachers were also made in great many cases on grounds other than educational and due consideration was not given either to merit or to seniority. The first change, therefore, that this Bill proposes to introduce is to place the responsibility of primary education on the shoulders of Government. It is not a matter, as was wrongly thought in some quarters, of merely increasing the rights of the Minister that is being sought by this Bill. It is a matter of undertaking definite responsibilities in the matter of primary education. You will see that in the preamble the very first words which are proposed to be added are "Whereas it is the duty of Government to secure the development and expansion of primary education". These words are new. They did not find a place in the old Act. It was not known, or it was not duly declared as to whether it was definitely the duty of Government to expand and to extend primary education in the country. It was also necessary to decide what should be the extent of primary education. It was necessary to see that literacy and education were duly distinguished, and it is therefore that you will see that even in the preamble of the old Act a few changes have been introduced by this Bill. As a result of the experience of the last several years, it was felt that Government must introduce some changes in the existing Act. The promoters of the Act had hoped that in the course of about 5 to 7 years it would be possible to make primary education compulsory in the whole of the Presidency. The honourable members will observe that in the preamble to the Act of 1923 what was stated was "Whereas it is expedient to provide for a progressive development and expansion of primary education so as to reach that goal on lines recommended by the Compulsory Education Committee of 1921 appointed by the Government". That committee had laid it down that all the boys would in all probability be provided for within five years and the girls within seven years. But all these expectations did not materialise, not only in the matter of the expansion and development of education, but also in the due administration of the work of education. As I said, after having divested themselves of the control of the administration of education in the country, the work of Government reduced itself practically to the allotment of grants to the several local authorities and to give such advice as was from time to time sought, which was not always accepted and seldom carried out.

We therefore came to the conclusion that, while the initiative and the direction of the policy as also the broad outlines of education should be left in the hands of the people of the school boards, who would have excellent opportunities of knowing their own needs, they should be

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relieved of the day to day administration, the work of making appointments, transfers and promotions. The kind of people who were elected on the school boards found that instead of doing the legitimate business of a school board, it was more interesting perhaps and more profitable, if I may use the expression, to devote their attention and energies to this work of making appointments and transfers.

The principal changes, therefore, that we seek to introduce in the Act are, in the first instance to arrange that Government should always get sound and proper advice as to how the system of primary education is working, and how it ought to work, instead of waking up by fits and starts, or whenever a member brings up a resolution and says that the system has failed. For fifteen years we went on. So many reports of Directors, some of which I will read to you in the course of my speech, laid emphasis on the fact that there was so much maladministration, corruption and nepotism in the school boards. The inspectors of the Southern, Central, and other Divisions have all criticised these aspects of the administration, but no action was taken. We feel that there ought to be a body in the country competent and able to survey the whole system of the administration of education, to tender advice to Government, and to see that the Minister for Education, whose responsibility it is to see that education is expanded, developed and properly imparted in the whole country, is kept on proper lines of policy. One of the main provisions of this Bill is therefore the creation of a Board of Primary Education. That board will be known by the name of the Provincial Board of Primary Education. The constitution of the board, honourable members will see, is expected to be such as to represent local opinion as also Government opinion, in addition to those who are qualified to advise on matters of education by their expert knowledge. Six of these members will be elected by school boards, the remaining six will be appointed by Government. The Director of Public Instruction or some other officer deputed by him will be the Secretary of this board, and the duties of this board will be to examine and recommend schemes for the organisation, co-ordination and expansion of primary education and for the correlation of primary education with the system of education as a whole in the Province; to make recommendations and to advise the Government with regard to matters specified in sub-section (3) of section 27; to advise the Provincial Government generally on all matters connected with primary education, and to exercise such other powers as may be conferred on it. This board, the members of which must possess certain qualifications which are defined in section 4, will be in a position to guide and advise Government in all matters relating to primary education.

The second change that is introduced is—and in this I wish we had been able to go much further than we have been able to go—the improvement of the qualifications of members of the school board. For certain reasons, which I shall be able to refer to in greater detail when the Bill comes to be considered clause by clause, we found that it was not possible

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to raise the qualifications of members much higher than the passing of the vernacular final examination or the anglo-vernacular third standard or some other equivalent or higher qualification in matters of education. But we do hope that in the new system of administration it will not be possible, as it was in the past, for people who could not even sign their names to be members of school boards and to take to task the administrative officers and the supervisors and pass judgments on matters about which they did not know anything at all. As I said, although we may not have gone as far as we desired to go, we have already improved the qualifications for membership of the school board.

The third change is that the appointments of the administrative officers, which were hitherto made by the local authority with the approval and sanction of Government, will in future be made by Government. Administrative officers will form a cadre of Government servants. Clause 12 specifically lays down that for every school board there shall be an administrative officer, that he shall be the chief executive officer of the school board, that he shall be appointed by and shall be a servant of the Provincial Government, and that his pay, powers and duties shall be prescribed by Government. This, as members will easily realise, is bound to improve the system of administration to a considerable extent. The administrative officers will not only have a security of tenure, but they will be in future free to devote themselves to what is their genuine duty and to inspect, to examine and to carry on the administration of the work of education without any outside interference. They will form a cadre of officers and will be transferable from one district to another, and as I have already said, as the success of any system of administration of education depends so much upon the executive officer who is to carry out your policies and to give effect to what you think is in the interest of education, the fact that men with proper qualifications will be appointed, that they will be free to devote their attention to their legitimate duties and will be directly under the control of the Department and the Minister is expected to improve the system of administration to a considerable extent. The appointments and transfers of teachers will now be made partly by the administrative officer and partly by the divisional inspectors. The administrative officers will be Government officers and as such responsible to Government, and even in the matter of the interests of the different communities, with the present policy of Government to safeguard the interests of all communities, there will be less room for friction and injustice. The supervisors, who were up to now not in the service of Government, will in future be Government officers, and Government will strengthen and improve the supervising staff by appointing trained and qualified men for this work.

Another defect in the present system of supervision is that there is, I believe, only in one district a woman supervisor. A number of complaints have been received in this regard, and a number of applications were made to us about the necessity of having women supervisors to

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supervise and inspect the girls' schools, and it is the intention of Government to see that this defect is in future remedied. I will leave the matter at that and leave the honourable members who are no doubt familiar with all the implications of this great demand to imagine the reasons.

The last feature of the Bill to which I wish to draw attention is that we have now brought into the body of the Act itself several important provisions which up to now found a place only in the rules which were made under the Primary Education Act. For example, the rule relating to the primary education fund as also several other rules relating to the election and removal of the chairman of a school board now find a place in the Act itself. I have also to draw the honourable members' attention to the constitution of the school boards. There will be from 12 to 16 members on the school boards. The non-local authority municipalities will have two representatives on these boards. Representation has also been duly provided for the interest of the minorities and of the backward communities. Honourable members, on turning to section 5, will find that this constitution has now been elaborately provided for.

These are in the main the principal changes that are sought to be introduced in the old Act. The administrative officers will be taken over and provision will be made as to how they are to be dealt with. The Bill seems to be fairly long, but that is only because several sections contain the rules which are at present to be found among the primary education rules made under the Primary Education Act of 1923. We have now transferred them to the Act itself and that is why we see so many sections in the Act. The principal features, however, are only those which have been outlined by me. I expect that after passing this Bill we may safely be said to have entered on a new era in the administration of the department of education. I will not detain the House with any lengthy remarks. The Bill has been before the whole province now for nearly a month. In the Lower House, at the first stage, we had about 120 amendments which were considered one by one by a select committee which went into the Bill very closely. Thereafter, the Select Committee made its report and again there were as many as 110 amendments in the Lower House. Every conceivable point of view was thought of and urged. The Muslim community, the intermediate classes, the backward classes—there was, I should say, a regular tug-of-war as to what should be their place on the school boards.

An Honourable MEMBER : What about the Parsis ?

The Honourable Mr. B. G. KHER : The Parsis have been very, very prudent. Well, representation for all minorities is duly provided in the Bill. On turning to section 5 honourable members will find that no legitimate interests are excluded by this Bill and after this careful scrutiny, whatever improvement was thought necessary has found a place in this Bill which I heartily commend to this House.

With these words, I shall now move that this Bill may be read a first time.

The Honourable the PRESIDENT : If any member desires to speak or take part in the discussion today, he can do so. If not, as arranged, I will adjourn the House till tomorrow when the discussion on the first reading will continue.

As to the hours of sitting for tomorrow, I have not received many amendments. Only a few have been received and I do not think we need extend the time. If necessary, we will consider that point later on tomorrow.

The Honourable Mr. B. G. KHER : May I inquire whether instead of sitting late after 7 in the evening it would not be better to begin one hour earlier ? That is what we used to do in the Lower House throughout the passage of this Bill—sitting one hour earlier and we were not compelled to sit late after 7. I am anxious, if it is possible, that the Bill should be finished tomorrow so that the day after tomorrow it can be taken up by the Lower House which has no work now. It is awaiting work which may be sent to it from this House. If we finish this Bill tomorrow, then on Friday this Bill can go to the Assembly. It will then be possible to finish the session which has been going on for nearly four months now, from January onwards, at least on Saturday. I may, therefore, suggest, if it is convenient to the House, that we might meet tomorrow at 1 p.m. and finish this Bill.

Mr. S. C. JOSHI : No other Bill will be taken up tomorrow !

The Honourable Mr. B. G. KHER : After this Bill is finished, no other Bill will be taken up tomorrow.

The Honourable the PRESIDENT : If the suggestion meets with the convenience of the House, then we may meet tomorrow at 1 p.m.

Honourable MEMBERS : It will be convenient to meet at 1 p.m. tomorrow.

The Honourable the PRESIDENT : We have received a few amendments; but if any more amendments are to be given, then in order that I may have time to look into them, they may be given by 11 a.m. tomorrow. If the amendments are given by 11 a.m. tomorrow, I will be able to scrutinise them before we begin the work.

Mr. S. C. JOSHI : Sir, we shall give some amendments now; but we may be allowed to give a few more amendments by 12 noon tomorrow.

The Honourable the PRESIDENT : Very well, they may be given up to 12 tomorrow.

The House then adjourned till 1 p.m. on Thursday, the 5th May 1938.

Thursday, the 5th May 1938.

The Council re-assembled at the Council Hall, Bombay, on Thursday, the 5th May 1938, at 1 p.m., the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir.
 DAVAR, Professor SOHRAB R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HAMIED, Dr. K. A.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, Khan Saheb A. A.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MARWADI, Mr. P. S.
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
 VIRKAR, Mr. M. B.

The following Honourable Minister was also present :

The Honourable Mr. B. G. KHEB.

BILL No. XV OF 1938 (AN ACT TO AMEND THE BOMBAY PRIMARY EDUCATION ACT, 1923).

Question again proposed, "That the Bill be read a first time".

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, when the Primary Education Bill was being piloted yesterday in this House, our Premier made a lengthy speech in introducing it. I rise

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to oppose the first reading of the Bill. The inordinate hurry and the array of 110 amendments and the indifferent treatment by the Government of these amendments as they were moved in the Lower House show that all is not well with the Bill as is being placed before us. The Premier requested us for unanimous support and the cause that he gave for this request of his was that the Bill had so many amendments which were fully threshed out and that it has been looked at from all angles of vision. I would have liked him to state as to how many amendments from the Opposition he accepted. Had he given us that information, we would have known as to what courtesy or what treatment the amendments from the Opposition got there.

In the new preamble of the Bill, as we have got it here, and which is said to be an improvement on the old one, we find the words "development and expansion of primary education", but if we turn to the 26 pages of the Bill, we find no scheme given for this expansion or development of education. Any scheme of primary education will fall under three heads. The first head would be the controlling authority like the school board. The second would be the administrative machinery and the third would be the instructions to be imparted under the scheme. If we turn to the controlling body we find that there is an amazing change proposed in bringing forth the Provincial Board of the Government that will now be brought in under the new Act. We would have expected that Government would have this primary education controlling body to be consisting of elected persons, but we find that as many as 50 per cent. of its members are to be nominated by Government. Only a few days back Government condemned nominations like anything on these bodies, but today we find that these nominations which were driven out by the front door are being admitted by the back door and further on we find that when there are qualifications put in for elected members there are no qualifications, educational or other, put forth for these nominees of Government.

We do not know, Sir, why Government have developed this sudden love for nominations. We do not know if since the Congress Party accepted office and became Government, the price or stock of nominations has gone high. If we look at nominations purely from the general point of view, we must say that the nominations are either good or bad, but we cannot have it both ways. Here we find the Congress Party or the Government re-introducing nomination into a body which is to control the whole educational system of the Province by providing for 50 per cent. of the seats to be filled in by their nominees. This reminds me of one of *Æsop's Fables* in which the wolf was wondering as to why the shepherds were having a feast and eating the mutton which was denied to him. If nominations were bad for local bodies before, they are also bad even if they are to be had by the present Government.

It seems that Government have got one rule for themselves and another rule for others. It may be political sagacity on their part,

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but it would not be a type of honesty which Mahatmaji would congratulate them upon. The Government have approached the whole question from a prejudiced point of view. Just after they accepted office, the first thing that they did was to declare that they were going to overhaul the whole educational system. It is common knowledge that when overhauling takes place or when we talk of overhauling even in the case of a motor car, children dance with joy and people just gather round out of simple curiosity. That is what is taking place here. The Government have condemned the school boards *ex parte*. They are given no opportunity to explain their side of the question. I know that I may be told that this proposal of Government was before the public for so many days and the school boards have not put in any statement protesting against the policy that the Government want to inaugurate. But Government, it seems, have not given any thought as to why these bodies are silent. Possibly these bodies are silent on account of the well-known Sanskrit maxim: नापृष्टः कस्यचित् ब्रूयात् । They were not asked and therefore they have not put in any written statements. There may be other reasons. We know of persons who prefer to sit on the fence and watch things as they take place. We have here members on the Opposition benches watching the results and then voting on Government side or remaining neutral. That is a human tendency.

Another reason seems to be that some school boards may have gone, by their deeds or misdeeds, astray and they are ashamed to show their faces. But that ought not to be the reason why Government should tackle the problem *ex parte*. We know that even criminals are brought forth before judges and in the case of those who cannot afford to have pleaders, courts give them the help of honorary pleaders, that the cases may not be decided *ex parte*; but Government will not give these facilities to school boards and so I think it deserves to be condemned. Government has not practically got the real grasp of the whole subject as to why the school boards failed. The real cause of the failure of the school boards, as we know, is the defective constitution both of the school boards and the district local boards. I have some experience of the working of the district local board and a little of the school board as well and I will take the example of the Thana District Local Board wherein I worked so that the point which I want to put before the House would be clear.

The Thana District Local Board consists of 36 members out of which 27 are elected and 9 nominated. Out of these 27 members is generally formed what is known as the Nationalist Party and we—I belong to the Nationalist group of course—get something like 17 or 18 members in that body and the other 9 go to what is called the Government or non-Nationalist Party. To this party of 9 persons are added 9 nominated members of Government and amongst these 9 nominated members are always three Prant Officers who, being influential persons, are always able to influence a member or two in the Nationalist Party

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and that is how they come in a majority. Then the most defective constitution of the school board helps them. The school board which consists of 13 members has only 6 seats which are offered for general election and on account of the cumulative voting each party confidently gets three seats, but the remaining seven seats are single seats by which representations of special interests are secured. Single seats we all know are captured by the party which is in majority and that party which is helped by the persons who are nominated carries nearly 10 seats out of 13 and thus in a way it tends to become irresponsible. Now that nominations are done away with in the case of district local boards, the whole situation is changed. We have to take into account a further fact, that the electors who have sent in the members of the Assembly here are the same electors who are going to choose the district local board which we know in the Primary Education Act as the local authority. The electors who choose their representatives always select better persons, so that the members sent by the voters to the district local boards would be better persons than the voters themselves, and these district local board members in their turn are going to choose the members of the school board. So the members of the school board are the chosen of the chosen, and if comparison were not invidious they would be in a better position than even the members of the Assembly that are returned by the same voters who return the members of the district local boards, and if Government always say that they are satisfied with the use of the discretion of the whole body of voters in returning them in a majority here, I do not know why Government are not now prepared to trust these same voters in returning members to the district local boards who in their turn will again return members to the school board. If we trust these voters and they will use their discretion and return the members to the district local board who in their turn return members of the school board as we expect them to do, then I think we can safely leave the education of our Province into their hands without taking away any of the powers they now enjoy.

Then we come to the administrative officers. These persons instead of serving under the school boards at whose disposal they are placed are now turned into Government servants, and the school boards are unnecessarily reduced to the position of the old excise advisory committees, whose advice may be heard but need not be listened to. We can visualise the position of these administrative officers if we visualise the Premier coming here to the Council and saying "I am going to run the Government with your advice or without it. I do not want to bother about it. I have got my power, and I shall run it." If you can visualise the Premier making that statement, you can visualise the administrative officer saying the same thing to the local authority. That is one thing.

Then we know that in the Montagu-Chelmsford Report we had certain principles laid down for the guidance of the policy of Government so far as local self-government matters were concerned, and there were two

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amongst them which were important. One said that these local bodies or the members who run these bodies should be allowed to manage things, even by committing mistakes. Further on there was another dictum that all the Government officers who had up to now helped all those bodies by becoming their presidents and guiding the affairs of their day to day life were asked to move aside and play the role of friendly lookers-on and advisers. We now find Government going back upon all these things and concentrating power and taking control of education away from these democratic bodies into their own hands, and thus going back upon the liberal principles that were advocated so far back as 1919 in the Montagu-Chelmsford Report. I do not know whether it is the idea of Government that Government servants are supermen. We cannot reconcile ourselves to that theory. If partiality is committed by some chairmen of school boards, it is just as likely that such favoritism or partiality can also creep in amongst Government officers. Why, even Ministers are not above it and we read in papers about favouritism that is shown by them. Let us not condemn only the chairmen of the school boards, when they are in such good company. Those persons had certain opportunities and they went astray. But that is no reason why Government should have all the powers concentrated in themselves. It seems Government are fond of taking all the powers into their own hands. Only yesterday, in spite of the Opposition, they got a Bill passed about more powers to the Police Commissioner under the pretext of an emergency, or panic, or whatever it was according to them. Today we see them coming here on account of the abuse of certain powers by School Boards to take all the powers of control of education from the hands of these bodies to themselves. We do not know why this sort of policy is inaugurated. It would be better if Government once for all make up their mind and say that they are going to do away with all these democratic forms of Government, that they know what is best for the whole Province and that they want to concentrate all these powers into their hands, that decentralisation may go away and they do not bother about it instead of doing it piecemeal. If they just put forth that policy, we can understand it.

Sir, we have now located the disease so far as the school boards or the local authorities are concerned, and we have done away with the nominations. Government ought to have waited therefore to see the result of this new policy for three or four years, and after obtaining experience of the working of the new bodies they could have brought forth a Bill taking back the power if abused or handing it in an expanded form to the school boards. When we have located the disease, we can apply the cure. For curing our cough we do not cut our throat. So, for curing a defect in the school boards the remedy ought not to be to take away the powers of the school boards altogether.

Then we come to the third factor, and it is about primary education. We know that the party in power has got certain pet schemes of its own, schemes like those of spinning and khaddar and certain other

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cottage industries as they are called. We know that the scheme of khaddar and spinning has failed everywhere, in spite of there being insistence on the office-bearers of the Congress Committees and other persons who are working in the Congress organisations wearing khaddar. In spite of all that, it has failed, and that is why this Wardha scheme has come forth. We know, Sir, that the Wardha scheme is put forth before the public by saying that it is going to make education self-supporting. We all know, Sir, of the alchemists of old who used to promise people that they would turn base metal into gold. There are again people who promise to double or quadruple currency notes. There are others also who are enamoured of perpetual motion. All these ideas are put forth to catch the unwary public and ultimately to deceive them. The people have lost sight of the fact that under this scheme of education, which is going to be self-supporting as it is put forth, they themselves shall have to buy the articles produced by their own children in spite of the factory laws and they will have to produce the money for all these things. Sir, when we know that all these things are coming forth, and if we analyse all these things, we find that there is one and one thing behind the back of the mind of the Government, and that is that they know best what is best for the people, they want all the power in their own hands; they as much as say "the people do not understand anything and we know everything". I do not find any other sentiment behind it. I find them going back on the decentralisation which now exists and wanting to concentrate all powers in the hands of Government. To that undemocratic idea I have the greatest objection, and that is why I oppose the first reading of the Bill.

Dr. G. S. MAHAJANI (Poona *cum* Satara): Sir, the question before this House is not a party measure, and I want every member of this House to look at it from a national point of view, and I hope, when we come to suggest certain amendments, Government also on their part will throw this question open to the free vote of their own men. I wish to assure my honourable friend on my left (Mr. Deodhekar) that I am not a cross-bencher, but I do possess what is called a cross-bench habit of mind, and therefore I appreciate much that is in the Bill itself, and I am, in spite of the amendments that I am going to propose later on, wholeheartedly in favour of the principle underlying the Bill and the main changes that it seeks to introduce.

Sir, the Primary Education Act of 1923, which is sought to be amended by the present Bill, affords to my mind the best illustration of the point I was making in this House the other day, namely, that in the actual working of any Act the original intentions of the framers of that Act do not at all count. I shall illustrate what I mean. What was contemplated by the sponsors of the 1923 Act was that the administration, only the administration, of the primary education, not the supervision nor the inspection but only the administration, was to have been transferred to the local bodies. What happened can be told as a brief story. The Act was passed in 1923, towards the close of Dr. Paranjpye's

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regime. It took nearly a year for the Department to frame the rules. By that time Dr. Paranjpye went out of office. He was not returned to office, and the intentions with which the Act was framed were not incorporated sufficiently well in the rules. When Dr. Paranjpye returned from the India Office in 1932, he himself surveyed the situation and contributed some three articles to the *Servant of India* on this very question of primary education. There he pointed out the defects, how the actual working of the Act differed from the intentions of the sponsors of the Act, and he advocated certain very necessary changes in those three articles. I have not with me those articles here, but I may say that most of those changes have been thoroughly incorporated in this Bill. It was not only Dr. Paranjpye's opinion. Take the verdict of the Hartog Committee. I refer to the very passage which was quoted by the Honourable the Prime Minister yesterday in this House. The Committee says :

"Viewing the position in Bombay as a whole, we think it is to be regretted that a system of primary education which had been framed on sound lines....."

It does not at all question the soundness of the lines on which the Act was framed.

".....should have been handed over to the control of local bodies, without the insertion in the statute or the rules of sufficient safeguards to ensure that Government working through its Minister and the Education Department would be able at least to guide future development".

This committee, therefore, endorses the view that I am putting forward, that not the Act so much as the rules framed thereunder were defective, and therefore the whole education machine, so to say, was found to have derailed.

The present Bill, it is true, goes further than the changes that were advocated in 1932 by Dr. Paranjpye—goes further than the intentions that underlay the Act of 1923—in two respects. First of all, it takes over the administration also in many respects from the local boards, because, as soon as the Bill comes into force, the administrative officers will come under the control of Government. That is the first change which was not contemplated by that Act. The second change is the institution of the Provincial Board with, as my honourable friend complains, the principle of nomination of certain members on that board. I shall come to that later on. But the first question before the House is whether this resumption of the administrative powers, the administrative control of the machinery, is justified, whether this House should be a party to this, which from the point of view of some members is an undemocratic act. Now, as I said, this is a question which every one of us will view from his own point of view, but looking at it from the national point of view, I have myself made up my mind to support the Bill and I shall briefly give the reasons why I believe that we are quite justified in lending our support to a measure for the reversal of the policy of transfer of administration to the local bodies.

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I have, Sir, very closely followed the discussions in the lower House. I have also very carefully read the articles, some of them very well informed articles, that appeared in the press on this question. I noticed that in support of the retention of administrative powers with the local boards high authorities have been quoted, such as Lord Ripon's Resolution on Local Self-Government of 1882. Then again quotations from extensively long passages from the Decentralization Commission of 1907 have been pressed into service to support that view. Now, I beg to submit that even those high authorities did contemplate a step like this and in support of that I shall give some of those quotations. This is what the Decentralization Commission of 1907 say :

1-30 p.m.
 "It is also important that primary education should be adapted to the needs of the people and this can best be effected by giving local bodies direct responsibility for its evolution and management."

Now this measure reverses that step. The Government itself undertake that responsibility. The State itself assumes the responsibility for mass education. But they themselves observe a little later :

"In view however of the political importance of a sound system of political education, we consider that there should be a further inspection of board and aided schools on behalf of the Government in order that the Government may be informed of the character and working of those institutions and may be able to intervene in case reform is called for."

Thus an occasion for intervention was contemplated by them. The best reply to all the theoretical arguments that can be brought forward in support of decentralization, is nothing but the experience of the last fifteen years. One fact based on experience is worth ten arguments based simply on theoretical reasoning.

Here again is a quotation from the presidential address of the Congress President (Lal Mohan Ghose) at the Congress held at Madras in 1903 :

"The popular control over our educational institutions should not be lightly interfered with until it has been plainly shown that the popular control has been found altogether a failure."

Now, every member of this House has to ask himself this question, whether the administration has not in these years plainly shown that the popular control has failed. Sir, I am left unconvinced by the quotations that have been brought forward to support this particular decentralization measure.

Now, the second reason why I support the principle of the Bill is this. I have heard much about the right of the people to err, to commit mistakes, to improve by experience, and so on, and it is contended that it is a right of the local bodies to learn through mistakes; that it is a period of transition, and that no matter what havoc you might have seen, you should put up with it for a certain period. Now, I ask, experiment at what cost! It is a problem of national importance, the

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fate and the training of the younger generation is being entrusted to the hands of the local bodies. I have not the least objection if you transfer wholly the adult education or the spread of literacy among the grown-ups to the hands of the local bodies. Even if there are many mistakes, they will not leave any permanent effects on the nation, because the grown-ups are certainly to disappear from the scene in no time. They have played their part and, if there are any mistakes at all,—I do not mean that local bodies will necessarily commit mistakes,—but so far as those experiments are concerned, it will not matter much. When, however, it is the question of the rising generation, then I think we would be running too great a risk in entrusting that training to inexperienced hands.

Now, one more consideration in this connection is this: even in the Continental countries—I pressed this point at the time of the budget, last year—compulsory primary education is regarded as a State function which is entirely carried on by the State. I do not agree that it should be run as a machine as is being done in some countries, for example, in Fascist Italy, or Nazi Germany or Communist Russia. My whole point is that the mere theoretical objection that, in resuming control of education, we are going to be undemocratic has left me unconvinced.

There is yet a third argument which I wish to suggest to this honourable House. Our ideal is a democratic form of self-government and the successful prosecution of any form of democratic government is, in the first instance, conditioned by an intelligently directed system of mass-education. Unless you secure that, the whole of the democratic ideal will be in danger.

These are some of the arguments which I wish to place against the academic stand which has been taken by certain members in this connection.

There is another objection to this Bill with which I certainly sympathise, namely, that Government have shirked their duty of informing this Legislature of their future plans, that is to say, within what time they hope to tackle this problem successfully. I have not always insisted on a time-limit when there is a popular Government in power. I myself found fault with Government's announcement regarding their prohibition announcement of three years. There is some point in insisting on a time-limit for the Indianization of the Army, because you are concerned with the British people. There is certainly a point in insisting on a time limit for the provincialisation of the Imperial Services. There is certainly some point in insisting on a time-limit within which we shall grow into full Dominion Status. But when there is a popular Government in power—I do not mean popular in the sense that it is a Congress Government, but a Government which is elected by the people and which is responsible to the Legislature. Tomorrow the Muslim League Party may be in power, or the Liberals may be in power; I do not rule out that possibility; it may be after 20 years—the point is that it is not so much necessary to put a time-limit in the case of a responsible

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Government. Government may yet be evolving their plans, but we members of the Legislature are entitled to know what is at the back of their minds. Sir, the war against illiteracy is the most sacred war in which a nation can be engaged. And when the Honourable the Prime Minister visited my college last year, I expressed the hope that this war which was begun by the late Mr. Gopal Krishna Gokhale in 1910 would be brought well under way by the Prime Minister by 1940, so that in the history of India, so far as the students of this country are concerned, this will be known as another "30 years' war". I hope in the reply that the Honourable the Prime Minister will give later on, some sort of assurance will be given that by 1940 the whole problem, if not entirely solved, will have been placed on a satisfactory path of complete solution. That is all that I have got to say with regard to the time-limit.

Coming to the institution of the Provincial Board, there is, I notice, the objection to the principle of nomination. But I do not support that objection. For, I do not attach here so great an importance to theoretical principles as to practical politics. Suppose, for instance, that a man of the position of the Vice-Chancellor of the Bombay University, or, for the matter of that, Dr. Paranjpye, the sponsor of this Primary Education Act, both are present in this Presidency and available and suppose that Government wish that their advice and their services on this Provincial Board are required and will be found useful, is it imagined by any one here that people of this type will offer themselves for election? Men of the right type—that is the fear—may not even offer themselves for election by the local bodies, apart even from the consideration that there is a great difficulty of getting elected on this body unless you resort to certain measures. To secure, therefore, the services of people of that status, of people of experience, of experts, who may not possibly offer themselves for election, Government have included this provision of nomination in this measure. Of course, there is an amendment to curtail the number of these nominations. To that we shall come later on. But, so far as the principle of nomination is concerned, and nomination by a popular Government, I must beg to differ from my honourable friend on the left, who is opposing it.

Now with regard to the Provincial Board, I want to impress on this House that apart from the expressed provisions in the Bill which bear on their functions, there is a special merit that will be secured by this Provincial Board—the special merit to show the danger signal when necessary. Sir, the Act of 1923 was passed fifteen years ago. The defects in the working of that Act became apparent within a very short time of its coming into operation. Every year the reports of the Administrative Officers, of Inspectors, of the Director of Public Instruction, outlined these defects. There was the report of the Hartog Committee; there were responsible articles even by the framers of the Act. I mean from all sides suggestions were pouring in and yet

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it took nearly 15 years to contemplate a measure to remove those defects. Now, why should 15 years have been wasted? Why should the younger generation, the children who were educated under this Act, have been deprived of the wisdom that was necessary to step in? The reason is that there was no competent authority to point out the danger signal. If the Director of Public Instruction brings a report, people say "it is entirely due to the perverse attitude of opposition of the department to the administration by the local bodies". If public men make suggestions, they say "there are so many diverse suggestions coming forth". Thus nothing influences the Governmental machine that simply grinds on without mercy and without improvement. Now, this Provincial Board, whose function it will be to advise Government, as soon as it sees that the Act is being worked on wrong lines or that the train is being derailed, will at once advise Government to come forward and make the change. From that point of view, I welcome the institution of this Provincial Board and I am confident the House will also welcome it.

Now, Sir, we have tabled certain amendments, but I have not tabled an amendment on what I consider an important matter and I wish the Honourable the Prime Minister to give his careful consideration to this point. The administrative officers will, most of them, barring a few exceptions, be now Government servants and they will be carrying on the administration of this primary education. But there is no provision in the Bill, so far as I have been able to read, by which they will be given a certain control—some minimum effective control—over the staff of the school boards. It will be very easy for a perverse school board, if there is a difference of opinion between the school board and the administrative officer, to render his position false by allowing its staff to be not loyal to him. I have not been able to see how an amendment can be framed, but I think it is a point which should be carefully considered by Government. There are two suggestions which spring up to one's mind, namely, if all the officers connected with the local authorities, say, the Health Officer, the Chief Officer, the administrative officer, if all of them are provincialised (as it is now sought to provincialise only the administrative officers), then there will not be much difficulty. But it will be too much and that is not what is contemplated. Then there is another suggestion that some provision in the rules may be made—I cannot say how and in what form—by which this friction will be perfectly obviated. Then there is another point—I will not speak much on it because there is an amendment on that—and it is regarding the qualifications of members. I do wish that the Select Committee had not watered down the qualifications so much. The Bill, as it stood, in its original form, was indeed a very good Bill, but the qualifications that are now put down are such that hardly any member of the present local boards will be disqualified. That is what I find. There will be hardly any improvement. However, it is not a matter on which I should speak at this stage, as there is an amendment on that point.

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Before closing, now that the Prime Minister is present on this occasion, I shall take one or two minutes in voicing forth what has become a constant and common grievance of members of this House and which has not been attended to so far. My honourable friend on my left, Mr. Deodhekar, referred to the hurry and to the rush in which this Bill has been brought and is being passed. I shall say only this: if any Bill merited the appointment of a joint committee—I mean a joint select committee—it is surely this Bill. Yes, it is open to us to suggest amendments—and we shall suggest amendments—but I want to point out to the Honourable the Prime Minister the difficulty of that procedure. When we are members of a select committee it is possible to hold private conversations, to talk across the table and understand each other's point of view, but now we are placed in a difficult position because the Bill has come before us at the fag-end of the session; if any amendment is suggested and accepted, it has to go down to the Lower House and this consideration weighs with the Minister concerned, whether it is worth while accepting the amendment. Even if the amendment is an innocent one, the natural inclination is not to bother about it. This is the disadvantage to which we, the members of the Upper House, are put. We have always held that in the matter of important Bills, Government should avail itself of the provision of appointing a joint committee. The point is not strictly relevant to the question at issue, but I feel that I should bring it to the notice of the Prime Minister. So far 12 public committees have been appointed, but on none of them a member of the Upper House has found a place. Long before the Housing Committee was appointed, I had suggested that the honourable member Mr. S. C. Joshi—who has studied this problem as became apparent to the House the other day from the quotations that he gave—would be a very useful member on that committee; but he has not been appointed. It is not late even now; Government have always appointed additional members by issuing a separate circular. I would suggest that this error may be corrected.

With these words, I support the first reading of the Bill and I hope that when the amendments are being discussed Government will take my appeal into consideration that this being a question of national importance, they (the amendments) will be left to the free vote of the members, if at all it comes to voting.

Khan Saheb A. A. KHAN (Central Division): Sir, I rise to congratulate the Honourable the Prime Minister, not for having introduced an ideal piece of legislation in this House, but for having become alive to the fact that the state of primary education in this country is very deplorable. It is surprising to find that a period of 15 years has elapsed since the passing of the Primary Education Act and Government has not paid any attention whatsoever to how the administrative machinery has been working in the matter of imparting primary education. A Bill of this nature should have been brought much earlier and the defects remedied by proper legislation. However, it is never too late to mend

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and the Honourable Minister for Education has taken a bold step in bringing this Bill and I think he deserves congratulations for that.

He has characterised this Bill as one of the most important measures which his Government has introduced during its tenure of office. I believe Dr. Paranjpye, when he introduced the Primary Education Bill in the year 1922, claimed that that Bill was a very important piece of legislation, and probably 10 years hence when another Minister for Education introduces a third Bill for amending or improving the machinery for imparting primary education, he will consider that his Bill is a very important one. After all, education is an important matter, whether it is primary or secondary, and any legislation which affects education, which changes it, which seeks to introduce improvements in the existing machinery, is bound to be an important measure.

The defects which the Honourable the Prime Minister has mentioned are defects which really exist. They are the result of the neglect on the part of the framers of the Primary Education Act in certain directions. He has told us that the Chandavarkar Committee in its report suggested the appointment of an Education Board and an officer to act as secretary and it was of the opinion that the efficiency of the administration was dependent upon the efficiency of the officer. He has told us that the administrative officers, appointed under the Primary Education Act, have not been as efficient as they should have been. It is a fact which cannot be denied; there can be no two opinions on that. We have to admit that our administrative officers throughout the Presidency, instead of administering education, have been more concerned with administering tea and refreshments to the members of the school boards and to the members of the local authority. They have not been paying that attention which they ought to have done to their own duties and functions. If they had done so, probably a measure like the present one would not have been necessary. It is quite true that the school boards consist of people who know nothing about education at all. In fact, membership of the school boards is a coveted thing and it is sought more or less not with the idea of improving the state of primary education in one's own town, but with the object of ensuring one's own seat at the next election. The teachers—it is a notorious fact—possess a good deal of influence over the area in which their schools are situated. The members of the local authorities have from time to time come to realise that if they were to be elected to the school board they would be able to take advantage of the administrative machinery of the school board for the purpose of canvassing for their own election to the local authority in future; and the result has been that we have had all sorts of people on the school board, people who had nothing whatsoever to do with education, people whose claim to education did not go beyond signing their own names, people who did not understand what education meant. The result has been that the state of primary education is extremely deplorable, as I said in the beginning.

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But while I agree with him in the diagnosis of the disease which he has given us yesterday, I do not agree with him in the remedy which he has proposed for the purpose of curing this disease. He has attempted to deal with these school boards as we deal with minors at law. He has tried to put the school boards under the tutelage of the Provincial Board, constituting that Provincial Board more or less as the guardian of the various minor school boards in the Presidency so that the Provincial Board can exercise the necessary supervision over the working of the school boards. He has further introduced a sort of diarchy in the system of primary education in this country. The School Boards will remain, whether they are good, bad or indifferent. Over and above the school boards will be the Provincial Board. Then there will be a staff for inspection and supervision and finally there will be the supervision of Government itself. He feels that during the last 15 years owing to the neglect of Government in exercising proper supervision over the state of primary education in this country we have not made that progress which, in the year 1922, we ambitiously claimed we would make, namely, that in about 5 years all boys in the Presidency would be literate and in 7 years all girls in the Presidency would be literate.

I think, however, that the establishment of this dual system of control and of the system of tutelage will not improve matters much. If the school boards remain under the tutelage of the Provincial Board, the Provincial Board will probably become a permanent feature of our educational system and we cannot contemplate the day when it will be possible to emancipate the school board from the tutelage of the Provincial Board. The remedy lies elsewhere. Education is a technical subject. It requires expert knowledge. Government in appointing its own officers in the Educational Department insist upon a certain minimum educational qualification as a necessary condition for appointment of teachers, of educational inspectors and deputies and assistants and of other supervising staff. It is strange to find, however, that when transferring the entire control of primary education to the local authorities and at the same time introducing compulsory education into this Presidency thereby making the administration of primary education more widespread than it was before, Government did not, in the Act of 1923, consider the situation as they should have considered, and were content to see that the school boards were so constituted that the membership could be sought by anybody, by the members of the local authority or by any outsiders. No educational qualifications were insisted upon, in fact nothing but the goodwill of the local body was insisted upon for eligibility for election to the school board.

Now, if you have on the school board men who can merely sign their own names, if you have on the school board people whose sole desire is to ensure their seats at the next election, the results which have followed are bound to follow and my submission is that the remedy that should

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have been adopted by the Honourable the Minister for Education was to improve the constitution of the school boards. I know I will be told that insistence upon educational qualification for election to the school board is a retrograde measure, that in these days of democracy qualifications for eligibility should be as low as possible. We will be told that to the Legislatures are elected people who probably possess as many or as few qualifications as those who offer themselves for election to the school boards. But it should not be forgotten that, while such people do come into the Legislatures, have a right to come into the Legislatures, and it is desirable that they should come into the Legislature, the machinery of Government is still there and that machinery can exercise the necessary and most effective check on any of their aberrations. That machinery of Government will not lend itself so easily, as the machinery of education has lent itself to the members of the school board, for the purpose of ensuring the seats of members of this Legislature at the ensuing elections. In the case of the school boards, however, the position was different. There was no such machinery in existence and the result was that people came in who had no business whatsoever to be on the school board. Primary education was neglected, thousands of rupees have been spent and today we find that the time has come for taking drastic steps.

Then, again, the power of the administrative officer has nowhere been defined. If you compare the Primary Education Act with the sister legislation, the Municipal Boroughs Act, you will find that whereas sufficient safeguards have been provided in the case of the Chief Officer, sufficient powers have been given to the Chief Officer to check the irregularities and immoderation of the local authorities, no such power has been given to the Administrative Officer. They are entirely at the mercy of the two-thirds of the majority of the local authority. It is no doubt true that previous sanction of the Government has been considered necessary before an administrative officer could be removed from his office; but one can well imagine circumstances in which it would be easy to obtain such previous sanction also. The man was entirely at the mercy of the members of the school board and the members of the local authority. He had no powers and therefore he had to act, as he did, because it was necessary for him to see in the first instance that his bread and butter were secured.

If we turn to the Municipal Boroughs Act we find that a number of provisions have been made empowering the Chief Officer with authority to do certain things and he can exercise these powers, and defy the members of the local body altogether. For instance, in section 30 of the Municipal Boroughs Act we find the following: "The executive power for the purpose of carrying out the provisions of this Act vests in the Chief Officer." And section 34 provides: "The Chief Officer shall, subject to the general control of the President, watch over the financial and executive administration of the Municipality." And there is one other section which is very important and that is that whenever the

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Chief Officer invites tenders and has to enter into contract for the execution of work or for the supply of materials we find the following provision : "The Chief Officer shall not be bound to accept any tender which may be made in pursuance of such notice, but may, with the approval of the Standing Committee, accept any of the tenders." The power to accept is his. He has only to secure the approval of the Standing Committee. If the Standing Committee does not approve of the tender which he recommends, he need not accept any tender the Standing Committee may suggest for acceptance to him. He is not bound to do it and on this point there have been many quarrels between the Standing Committees and the Chief Officers in the past. The latter have stood out for their own right, they have said that they have the first right to select these tenders and invariably they have succeeded. Similar powers have not been given to the administrative officers with the result that the administrative officers have always had to carry out the wishes of the school board and the wishes of the local authority. In my opinion the proper remedy in the first place would have been to insist upon a high degree of educational qualification for the purposes of eligibility to membership. I find that in the Bill which was introduced in the Lower House there was provision for passing the matriculation examination but that has been whittled down to Anglo-Vernacular Third Standard. If all the members of the school board are men of high educational qualification we may well expect that the work of imparting primary education would be properly done. That is one remedy which I suggest and the other remedy which I should have thought the Honourable the Minister for Education would have adopted would be to render the administrative officer independent of the vagaries of both the school board and of the local authority just as the Chief Officer in the municipalities is. Instead of adopting either of these remedies, the Honourable the Minister for Education has attempted to restore the control of primary education back to Government.

Now, Sir, in the year 1922 when Dr. Paranjpye introduced the Primary Education Act in the then Bombay Legislative Council, he told the members definitely that he was conferring educational autonomy on the local authorities, that he intended to transfer the entire control of primary education to the local authorities. He was fully alive to the position which the Honourable the Minister for Education mentioned yesterday, namely, that education is a national service and no Government worth the name can repudiate its responsibility in that direction. He was fully alive to that responsibility, but at the same time, acting upon the policy which had been followed in other civilised countries, he thought that the time had come for the transfer of educational control from the Government to local authorities.

Fifteen years have elapsed. The transfer of control has not resulted beneficially and instead of trying to improve the situation, instead of trying to remove the causes which are responsible for the deterioration of primary education, we are asked to accept a retrograde measure.

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We are told that after 15 years' bitter experience we find that we had made a very serious mistake in conferring educational autonomy upon the local bodies. We shall, therefore, take back that power. My submission in this connection is that either the local authorities should have educational autonomy or they should not have. If Government think that they should have, Government should have devised such measures and put forward such schemes as would make educational autonomy both possible and successful in the local authority. If you find that you cannot do so, if you find that the local bodies in this country are not fit to exercise the powers which would be given to them under educational autonomy then get rid of the school boards altogether. Why have the farce of school boards? I fail to see why the school boards should be continued, which will be presided over, probably bossed over by the Provincial Board; there will be an inspecting staff and there will be eventually Government control. If you think that the school boards are useless bodies, if you think that the local authority will not elect a body which will be able to exercise proper care, proper caution in the matter of education then your proper course would be to take away the power from the local authority of imparting primary education to boys and girls resident within that area. Take over the control entirely yourself. Run the machinery as you were running prior to 1922. Call upon the local bodies to contribute their quota towards the expenditure on primary education and run the machinery as you want it to be run. Why have this dual system at all? In my opinion, this dual system will probably result in greater mischief than the school boards were ever able to perpetrate. It has been remarked by the honourable member who preceded me that he did not wish to experiment with the education of children; one might experiment with the education of adults, but the education of children and primary education is a matter in which experiment should have no scope whatever. I quite agree, but then the remedy is not what he has suggested. The remedy lies in improving the quality of the school boards. We find that some effort has been made by Government for improving education in this Bill. It may probably result in better efficiency of the school boards, but to say that school boards should be deprived of the power of administering primary education and the power of the local authorities should be taken away because you are experimenting with primary education is to advance an argument which does not stand to reason. The present school boards will be elected by people who will themselves be elected by the people who have elected you. If their choice of you has been proper, surely you cannot turn round and say that their choice of the members of the local bodies is improper and it is the members of the local bodies who have chosen and who have been choosing the members of the school boards. The whole trouble lay in the fact, that no educational qualification was insisted upon for membership of the School Boards. Some effort is now being made to insist upon an educational qualification, but I am

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afraid it is a half-hearted effort. I wish the honourable Minister for Education had gone the whole hog and insisted upon at least graduates of five years' standing being eligible for membership of school boards. That would have been the proper measure. No Provincial Board and no inspecting officers would have been necessary. Government need not have exercised any control. They might have gone to sleep just as they did in 1922, and they might have awakened from their sleep fifteen years hence, and they would probably have found that the state of primary education was better than it was in the year 1938. Unfortunately, even the boldness and courage of the Honourable the Minister have probably failed him at the last moment, and he thinks it would be too much to expect such a high educational qualification from the members of the school boards.

Mr. T. M. GUIDO : You have not got Mahomedan graduates of five years' standing !

Khan Saheb A. A. KHAN : My honourable friend should remember that when we as a minority insist upon our representation on the school board, we do it not because we want Mahomedans on the school boards, but because the primary education that is given to the Mahomedans is in a language which is different from the language which is spoken and in which education is received by the Hindu pupils. If the day comes when the Hindus learn Urdu and learn it just as well and are able to speak it just as well as we Mahomedans, we shall not insist upon the presence of any Mahomedan on the school board. After all, the primary education that is given to the Mahomedan boys and girls is in Urdu. What do you know of Urdu ? What do you understand of Urdu ? What would you be able to do if you were to visit an Urdu school ? You would be able to do nothing. And if Mahomedan graduates of five years' standing are not available, that unfortunate state of affairs is probably due to the very fact that in your educational and administrative machinery, there were no Mahomedans and therefore we find that Mahomedan graduates of five years' standing are not available. But I can assure my honourable friend opposite that Mahomedan graduates of five years' standing are available. They are available in any number, and if you insist upon that qualification in the case of Hindus, you might as well insist upon it in the case of Mahomedans, and I shall see to it that every school board has a Mahomedan graduate of five years' standing. Mahomedan graduates are not now the rare thing that they were 10 or 15 years ago. They are more common now than they were in those days. If, at the present moment, we are insisting upon our representation on the school boards, we are doing it for an entirely different reason, namely, that the language in which primary education would be imparted to Mahomedan boys is a language which you do not understand. Understand it, learn it, and we shall place implicit confidence in you for the purpose of managing primary education under your control.

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As I was saying, Sir, the remedy which the Honourable Minister has adopted is not the proper one. He was probably not bold enough to go to the length which I have suggested. If he had done so, he would not have been under the necessity of devising a cumbersome machinery like the one that we have got in the present measure. Therefore, while congratulating him on exposing the evil effects of the Primary Education Act of 1923, while congratulating him on having introduced this piece of legislation as a proof of his consciousness of the fact that primary education is in a deplorable state, I cannot congratulate him on having introduced an ideal piece of legislation.

Prof. SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, I confess that I have no experience as to how the district boards and the school boards are working, and hence I have been patiently listening to what my friends Mr. Deodhekar and Khan Saheb Khan and last but not least Principal Mahajani, who have very great experience in this matter, have been saying. But I have watched the growth of primary education, and I have experience in connection with that branch of education as it is worked by the Municipal Corporation of Bombay. Personally, I am a democrat, and unfortunately, I cannot help regretting that in the hands of a democratic Ministry primary education should have been considered to be a subject which should be centralised in the hands of the Government instead of being allowed to grow and flourish under democratic institutions. That is the one great objection I have against this Bill. It seeks to centralise all primary education—and who knows, later on all education—in the hands of the Government. It may be the first step, of which I am very much afraid. I think no Government is competent to claim centralisation of primary education or any other branch of education. I say that no Government is so competent as to say “our executive officers will manage the whole system of education in this country.” If you say that, then you strike at the root of democracy, and on that principle I am a strong opponent of the principle of this Bill. In the lower House I heard the Honourable Mr. Munshi supporting the Bill on the ground that in democratic countries like Socialist Spain, Communist Russia and Republican France, and of course he has very discreetly put in partially or in some particulars in England, the central authority controls primary education. Well, we all know what is Socialist Spain today. If primary education had been administered there by the local bodies, and if religious and moral instruction had gone hand in hand with it, today Spain would not have been that unhappy and most miserable country in the world, where one Spaniard is cutting the throat of another. We do not want that sort of scene in this country, where such a state of affairs would come in more easily, as we know from our experience of the communal and factional riots, than in a Socialist State. There they are one people with one common religion, and still the primary education of their children seems to have been laid out so defectively that today it is the most cursed spot that this world possesses.

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Coming to Russia where the Reds are in power, Stalin under his iron heel crushes down all democratic principles, all liberty, justice, fair play, where the press itself is not free, where a person who dares to criticise the Government in power is accused of sabotage, tried by a drumhead court martial and convicted of a faked offence and shot without mercy, and even the dead body is not handed over to the relatives, but is secretly burnt. Is that the type of country which is to be taken by us as a model for what we have to do in this country? As to France, I know France. I have lived in France repeatedly for long periods. I know what Frenchmen are. Their primary education is also defective, very defective. The moral tone is absolutely absent in a large number of cases. And what do you find in the French Parliament? There are small groups of people claiming to profess all sorts of religious as well as political beliefs warring with one another. You cannot deny that there must be something radically wrong in the education of those people if they are driven to that position. Morality in some departments is at the lowest ebb. Thus, I am sorry that unhappily these three countries should have been selected as examples or models to be followed in introducing a system of primary education in this country which has now a democratic foundation.

The local boards are said to be defective. The school boards are said to be defective. Well, all democratic systems are defective. The same electorate, as my honourable friend Khan Saheb Khan just now said—and it was the argument uppermost in my mind when the Prime Minister spoke—that elected the present Assembly and the present Ministry is electing these local boards. Where is the objection to trusting the local boards? As my honourable friend Mr. Deodhekar has rightly pointed out from his own experience, it was the constitution of the local boards that was defective, it was the constitution of the school boards that was defective. If that is so, the correct course should have been to improve their constitution. The Government are pledged to adult franchise. Here is that democratic institution elected by an electorate which is far superior to one which adult franchise will bring in, and if it is found to be unfit to manage the primary schools of the country, how do the Government consider same electorate to be fit to manage the whole country with a Ministry which they have sent in? You are thus striking at the root of your own position, and that is what I, as a democrat, am not prepared to agree to. I say that there is nothing wrong with the electorate's selection, that the electorate has sent up the correct type of men. The only defect was that the prior Governments did not want the electorate to function in the correct manner. They did not want, for example, that all elected members should function on the school board or the local board. They put in a large number of nominees, and in those nominated members they purposely included a large number of toadies, who were men who had pledged themselves to support the bureaucratic Government in season and out. Then again they reserved nominations for their officers and thus brought about

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an artificial majority. Naturally the school boards did not function as they would function under a purely democratic election. The correct course would have been, I submit, to have improved the constitution of both these bodies instead of experimenting entirely on new lines, I mean undemocratic lines, or rather autocratic lines. There is a suspicion in the minds of a large number of people outside that this is being done because the Government has no finance for primary education or even for secondary education, and therefore this subterfuge of the present Bill is brought up with a view to tide over that financial difficulty. I hope that those suspicions are wrong, and I am sure, if they are, my honourable friend the Prime Minister will refute them in public, because otherwise the public is rather suspicious of this Primary Education Bill.

Another point made by the honourable member Dr. Mahajani—it is a very strong point which applies not only to the present Bill but to all the measures that have been recently brought before this Legislature—is that the Government are going at a break-neck speed. They are too much in a hurry. They are working like that nervous person who is afraid of displeasing one or the other and wants to go ahead. But every measure, and particularly any important measure which they bring forward, has to be carefully weighed, balanced and well seasoned. Legislation may come a little late, but let it be perfect. Supposing they want to build a beautiful house or structure which would normally take six months but the orders are to build it within 24 or 48 hours, what will be the result! However clever the architect, the structure is bound to prove defective. Human intellect has its limitations. You cannot do things in a rush and hurry and do them perfectly. Perhaps, in the past, the practice may have been too slow and a Bill may have taken two or three years

2-30 p.m. to pass through all its three readings. But at present an important measure on which the life of the country, namely, that of compulsory primary education of our children, is being rushed by you in its three readings, without giving time to the people to think of the measure, without inviting opinions, without having a select committee of the two Houses and without considering it in a conference. Everything is being done in a hurried and rushing manner. This opinion is not only of mine, but I can assure my honourable friends on the Government benches, that it is the opinion not only of a good many staunch nationalists, but of persons belonging to your own party. They all think that you are going rather too hurriedly, but they cannot openly say so on account of discipline. Therefore I would request the Honourable the Prime Minister not to rush this measure through and go at break-neck speed as all idealists are likely to do which ultimately brings disaster. Everything should be done with great care. Take the case of Textile Labour Committee. Its report is most defective. But Government have hurriedly accepted its recommendations with the result that many of the mills are on the point of being closed. I am

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afraid the industry is in danger of being killed in British India, or of being transferred to the Indian States, because Government acted hastily.

Now with regard to the appointment of the Chief Officer ; this great autocrat is now to be created who is going to hold unrestricted sway in respect of the working of primary education, and the poor district local board is going to function as an advisory board. No advisory board can ever function efficiently. There is no responsibility on that and thus no self-respecting or intelligent person would care to serve on it when he knows that he is only there to advise and not to direct or create policies and to see them worked through. Similar is the position in connection with the directorates of many of our companies where managing agents take all the powers and the directors are mere dummies. That is exactly what will happen with your district local board, if you do not give them the power of initiation, the power of direction and the power of thinking out schemes and place responsibility on them to work successfully. That is the elementary principle of economics as well as that of organisation at the root of which you are striking.

Sir, I will give you my experience about the Chief Executive Officer in the Municipal Corporation. He is one of the three authorities, namely, the Corporation, the Standing Committee and the Commissioner, each vested with different powers. But we have always found that the power of removing him without the consent of the Government by two-thirds majority of the Corporation is a great check upon him. If he disobeys us we can bring a proposition and can remove him by a two-thirds majority. That is provided for in section 54 of our Bombay Municipal Act. He is appointed by the Government without consulting us, but still we have the power to remove him without consulting the Government. Here in the case of the Administrative Officers of District Boards, the Government has to consent to his appointment and the Government has also to consent to his removal which is a great defect in this Act, particularly when you apply it to a district municipal corporation which is spending more than a lakh of rupees on education. It may be spending 5 or 10 lakhs ; we are spending 34 lakhs on our education every year. In this respect therefore I think the Act is defective and I hope that something will be done when I move my amendment to remedy that. Sir, many times we have made arrangements or compromises with our Municipal Commissioner, because we have a certain control and he has some. If we find that he arbitrarily refuses to do what we suggest in his exclusive sphere, we give him a hint that when he comes to us for grants within our sphere in the Corporation we shall see that difficulties are placed in his way also and the result is that he has to be amenable to reason. You have kept this administrative officer in case of this Bill entirely independent of the Board with the result that he will carry on as he likes, even against

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the wishes of the Board. Even if by a two-thirds majority they decide to remove him, then again Government has to be consulted and Government might not agree to his removal, because he will give all plausible excuses and naturally always the sympathy of the Government will be with their officers.

Then again, this Act embraces a section by which a member of a local authority can be removed by two-thirds majority of votes. This is also an extraordinary power given to an elected body to remove one of their members by their votes. This is a very dangerous power to be given and I do not know of any legislature where such a power is given. You might remove a member if he becomes an insolvent, or is convicted of an offence. Such a provision is there in the Municipal Act.

The Honourable Mr. B. G. KHER : Such a provision is in every Act. In the Municipal Boroughs Act there is such a provision.

Prof. SOHRAB R. DAVAR : Then why two-thirds majority here ?

The Honourable Mr. B. G. KHER : It is the right of the body by two-thirds majority to decide whether a man may or may not be removed. If it is less than two-thirds, they have not this right. When two-thirds of the members think that the man has acted contrary to their interest, then they can pass a resolution. You find such a provision in every Act.

Prof. SOHRAB R. DAVAR : It is not so in our Act.

The Honourable Mr. B. G. KHER : Do not judge from Bombay.

Prof. SOHRAB R. DAVAR : The Bombay Municipal Act is a perfect Act.

In conclusion, considering all I have stated and particularly on the ground that all powers in the Bill are now being sought to be centralised in the hands of the Government, that is, taken away from democratic institutions and that too by a democratic Government, I am sorry, I shall have to vote against this Bill on principle.

Mr. NARSINGRAO S. DESAI (Dharwar cum Kanara) : Mr. President, Sir, I rise to support the Bill. When presenting the last year's budget the Honourable the Finance Minister had made some observations about the present administration of school boards throughout the Province. At that time he had said that the primary education administration in general of the whole Presidency was quite unsatisfactory and so the whole system of education should be overhauled. At that time he had said that they were going to introduce a new Primary Education

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Bill which would overhaul the whole system. That Bill has now come before the House.

Sir, as regards the administration of the present school boards, my honourable friends from Bombay think that the administration is good and they blame the Honourable the Prime Minister for taking away the powers from the hands of the school boards. But, Sir, I only request my honourable friends to come to the districts and go into the villages and speak to the villagers and then they will know what the true opinion about these school boards is. That is the only request that I have to make to them.

Khan Saheb A. A. KHAN : But you are responsible for that.

Mr. NARSINGRAO S. DESAI : It is against the members of the school boards that I am complaining. In villages if a child belongs to a man from the other party, he is not admitted to the school.

Khan Saheb A. A. KHAN : This is all democracy.

Mr. NARSINGRAO S. DESAI : Say whatever you like.

Sir, it is now admitted on all sides that a considerable decline in efficiency of primary education has resulted since the transfer of control. The Educational Inspector, Southern Division, emphatically says in his report :

"The school board inspecting officers are completely under the boards and have really no voice even in educational matters. Their suggestions and reports are either not free and voluntary or they are ignored. In the ultimate result, the teacher who is also an electioneering and canvassing agent, is the dominant authority."

This clearly shows what kind of administration is prevailing now in the school boards. Besides this, I want to tell you one thing more. In our district even now the school teachers are not getting their pay since four months. Though they know that the administration is shortly to go out of their hands, still the school board authorities are not coming to the right path. Sir, it is with great reluctance and pain that I have to bring these facts to light. But facts are facts and they must not be hidden, even if they relate to our men.

Now, let us go a little deep in the matter and try to see why such things have happened. It is not that the elected members were not sufficiently educated and not that they were uneducated, or that they had no experience of working on such bodies, or that they were unpatriotic. But the result is this. Let us see what the report of the Director of Public Instruction, Bombay Division, for the year 1932-33 says. It says :

"Either on account of the narrow communal outlook or on account of the very prevalent bad party spirit unnecessary transfers of the teachers are made or promotions of undeserving teachers are effected in several districts. This is demoralising the whole education administration of the district."

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This is the real cause. The same officer in his report for the year 1935-36 says that many of the administrative officers are glorified head clerks carrying out the orders of the chairman in particular and of the school boards in general. He has explained by all these things why the result is so. All these things show why the board administration fails. There may be other reasons also, but I do not wish to go any further into that. But the fact remains that if the administration is left in the hands of the school boards it will be quite unwholesome. So, the need of the present amending Act is perfectly proved.

Now, let us see how the present Act is. The present Act seeks to rectify the existing Act in three important aspects. These aspects are (1) administrative officers, (2) school boards and (3) Provincial Board of Education. The administrative officer in future is going to be appointed by Government and not by the school board as before and he will be a Government servant henceforward. So he will be an independent man and will have no reason to yield to the influence of the school board members. Besides, the administrative officer in future being free from the thralldom of the local authority will act as Government agent in initiating and administering the education schemes.

The second point is about the school boards. Under clause 5 of this amending Act, the school boards will be completely representative and will have some members with educational qualifications.

The third point is about the constitution of the Provincial Board of Education to advise the Government on educational policy.

All these things put together will certainly improve the education of our children in future. All these things are quite sufficient for the Government to make the future education more effective.

With these few remarks, I support the first reading of this Bill and congratulate the Prime Minister for having brought this Bill at such a proper time.

*Dr. P. G. SOLANKI : Sir, when the transfer of the control of primary education took place in 1923, we had our own apprehensions and doubts that the education of the most backward people would suffer; because it has been accepted on all sides that in a place like Bombay communalism is rampant and religion is uppermost. In villages where a large number of people belong to the orthodox sections of the communities—Hindus as well as Mahomedans—the education of the Scheduled or the untouchable classes and of the aboriginals would suffer. That was our fear and that fear has been realised throughout these years. Every year we have been finding to our utter dismay and disappointment that even in spite of our efforts for the last seven years we have not been able to bring about a healthy outlook in the minds of the school boards and the district local boards for the education of the children of the masses—I mean the aboriginals, the backward and the scheduled classes. Before 1923, when the control was in the hands of Government, it was thought safer by us

*Speech not revised by the member.

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as the Government would be watchful enough not to neglect the claims and the needs of the children of the most neglected people. After 1923 things changed and to our utter dismay we found that we were making the most backward people to drift to nothing. Education was being imparted by the local boards and the district local boards to the children of the favoured few in the villages. By favoured few I mean the people who are at the helm of the affairs of the local boards, the school boards and the district local boards. These people have the teachers at their sweet will. The officers dance on the sweet will of the powerful members of the school boards and the district local boards and these people are always more anxious and eager to serve the will and wish of the powerful members of the board than to look to the education of the children of the neglected people. What is the condition in the school boards? Even the transfers and appointments of teachers depend on the sweet will of the influential and powerful members of the district local board and the school board. There are teachers belonging to certain communities who are sure to get recruitment if they desire to join the service, but teachers belonging to the less favoured communities find it very hard to get any recruitment even in spite of the percentages laid down by the Government in black and white. Whenever we ask for the verification of the statistics and figures of the representation and recruitment of these people we are told that a sufficient number has been taken. The result is that their education is neglected, and the recruitment of the prospective candidates from the backward and scheduled castes going to the Vernacular Final or the Training College is not much or is nil altogether. It has been the cry of the Director of Public Instruction every year that the trained teachers from amongst the backward and the scheduled classes ought to be in larger numbers. The result is that the progress of education and the progress of training of teachers of these backward and Scheduled Classes is at a standstill. There are coloured reports, I should say, in the reports of the Director of Public Instruction that so many from the backward and Scheduled Classes have been recruited but if we go into details we find to our utter dismay that it is not. I have not been able to convince the Minister in charge that the Scheduled Classes have been neglected mercilessly.

Under these circumstances, I am glad to find that the Prime Minister who is in charge of the portfolio of education has come forward with a bold step of taking the control of the primary education so that they can have their own way of management. It is a very healthy sign; it is a very good step taken by the Government and we do feel that better days for the backward and Scheduled Classes are coming when Government have taken upon themselves the charge of education of the people irrespective of caste, creed or religion. I hope Government will be impartial in that respect and will not be led away and swayed to show partialities and favours for particular communities to which some of the officers may belong. Government should stick fast to the canons of justice and take education to the doors of the poorest of the poor and try

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to encourage and give impetus to the aspiring young men from amongst the backward and the Scheduled Classes to rise higher in education and acquire higher qualifications. Sir, much has been said in the Lower House about the powers which have been given to the administrative officers by the Government. The powers are such that he will be only responsible to the Government. The district local board and the members of the school boards will have nothing to do with him; they will have no control, no influence over that officer. That officer will be quite free to work and to act as he likes provided that he is in agreement with the Government. I think, Sir, it is not a bad policy. People sometimes condemn Government in the name of democracy and sometimes they praise the same Government. This time they are condemning the Government because Government are going to keep with them the power of appointing the administrative officers. Personally I think that the education will be in safe hands. However independent the administrative officer may be he will have his own limitations when he knows that he has to work under orders of Government and there is somebody above him who will take him to task if he deviates from his legitimate path.

Coming to the select committee, I much regret to find that no one from amongst the members of this House has been put on it. There are educationists in this House. I need not name them. Government knows them. There are people of experience, but it has been the habit of the present Government to neglect and to ignore the existence of this Upper House. The designation given is very dignified, that it is the Upper House, that it is the Upper Chamber. Somebody said it is the House of Lords, but where are these lords? These lords are on the left. Nobody cares for them and the Prime Minister and the Cabinet downstairs in the Assembly would have their own choice from amongst those members downstairs who are always before them and before their eyes in the Lower House. Here the Ministers and the Prime Minister come whenever they could snatch away or steal away some minutes from the important work of the Assembly, and grace our House, a House which deserves more courtesy and more consideration at the hands of the Cabinet.

Sir, that is one of our grievances. As it has been said by the honourable member Mr. Deodhekar or Dr. Mahajani, on the Housing Committee or on the Enquiry Committee there ought to be somebody who is well versed, who has spent the whole life in studying this problem, but Government themselves know what prejudice they have against the members of this House so that they have judiciously followed the policy of excluding every member and no member from this House is put on any of the committees, which number by this time about 12 or more. That is our grievance and I am afraid, however much we may talk over it or cry in the wilderness, it may or may not have any effect. Still, it is our duty to bring it to the notice of the Prime Minister who has come in power, who always tells us that he is for those

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who deserve things and I leave it to him to see whether we deserve or not. If we do not deserve, his future actions will show it to us and then it will be for us to consider how we have to behave.

The other thing which I should like to know is about the constitution of the Provincial Board. It has been a well-thought out policy of putting on members of some educational qualification on the Provincial Board. I do go in favour of that proposal that there should be better educated, if not very highly educated, persons on the Board. My honourable friend, Khan Sahab Khan, actually was jubilant over the fact that the Mahomedans are in a position now to supply graduates. This is the voice I hear after 10 years. Before 10 years, the Mahomedans were nervous. Now here is my friend from Poona coming forward and saying that he is not afraid of anybody's competition there. He can bring forth graduates of 5 or 10 years' standing by dozens. I say, all credit to him and to his community. From the statistics and the reports of the Director of Public Instruction what do we find? We find that next to the advanced classes, heel to heel who is in race? Neck to neck the race in education is between the advanced classes and the Mahomedans and the Mahomedans have taken and snatched away the second number in the race with the intermediate or the so-called Mahrattas who ought to have kept that place. Mahrattas have gone in the background and I do give the highest credit to the Mahomedan community which was condemned 15 years ago, that in the Mahomedan community there is none who can boast of being highly educated. Here is our friend who boasts and takes legitimate pride that his community can bring forth dozens of graduates. I wish that comes very soon for the members of the backward and scheduled classes, provided that the Prime Minister gives all facilities in the way of giving them education in every possible way which he has promised verbally many times and sometimes also by circulars. I will not find fault with him. As the boss he can issue orders. It is for the subordinates to carry them out and the rule is there. It is the subordinates who with their narrow minds and rather very narrow hearts cannot realise and understand the policy of the Prime Minister and go ahead and the result is that whatever noble policies and laudable ideas may be promulgated by the Prime Minister and the other members of the Cabinet, those are delayed, delayed and delayed till perhaps the Cabinet itself goes out of existence. So I do bring it to the notice of the Prime Minister that that should not happen. Sometimes they tell us nervously that they are going out of office, sometimes they say they are carrying on well. Now we are in a fix that such a wise and good Government should feel nervous and go when we want them to remain, we who were suspicious about their actions, we who were suspicious about their conduct. They have by sweet words won us over, not by actions yet, but still we live on hopes and we do say that if I were to prefer between the bureaucratic Government and the present one, I do find more solace in whatever actions the present Government has taken, than the promise which

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were given to us by the past bureaucratic Government and not fulfilled. This is one of the many manifestations of the seriousness of the present Government that they have come forward to take over the management of primary education. I wish them all success and I do say that with the honest motive with which they have put their hand in this matter they will see that this matter is achieved to its highest perfection and satisfaction of all concerned.

Sir, coming to the constitution of the local boards, it has been said that formerly there were nominations and other things. Even now there will be elections and for the formation of the local boards it has been put down in the Bill that the minorities and the backward communities are to be prescribed hereafter; there I have got my own suspicion. The backward communities are already prescribed in the schedule of the Government of India Act. The scheduled classes are also prescribed. Now I cannot understand the mentality of the present Government when they put down and bring in the word "minority" along with backward communities also. By minorities up till now we were understanding the minorities of the Mahomedans, but some other minorities are also creeping in, which minorities up till now were boasting that they do not care for the crumbs from the Government. They were up till now boasting that they have up till now kept their position and prestige on their own merits, their education, their qualification, their status and their creed. Now, the members of that community particularly are coming forward saying "we are a minority community and we should have a share". Up till now they were joining hands with the advanced classes, they were taking full share with them. Now when the percentage is laid down and the Public Service Commission has come in, such communities which were benefiting at the expense of these communities now when they see the future, they come forward and never lose an opportunity of saying that they should be also taken care of because they belong to a minority. Since when have they become a minority in all the aspects with which we consider the minorities or the backward communities in the present aspect! Sometimes it happens that without doing any harm or injury to the members from the Muslim communities who have taken advantage as Muslims on their own rights, they also take advantage as backward communities. Then the other communities also come in, the result being that the scheduled classes are the most to suffer. I have times without number gone and seen the authorities under executive officers and asked them and when I saw the results, the appointment and selection of the members, they say here are so many Mahomedans whom we have taken up. I said all right. You have taken up Mahomedans and we have no grudge, but instead of taking one, they take two, instead of taking two, they take three and when I ask about the scheduled class man having the same qualification, same *locus standi*, same mental calibre, they say: Well, it is not mentioned here that a

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scheduled class man or one belonging to Wankar or Chambhar community should be given. It is there as a backward community. You better try to amend the Act and get it done. This is the way we get rebuffs from the executive officers. I do not make it as a cause of grievance against the Mahomedans. I wish to give them everything and all and I do hope that Mahatmaji will give them everything and satisfy Mr. Jinnah. Then the question of Mahomedans will be set at rest for ever and the result will be only for the backward and the neglected, which will be an easier task for the Prime Minister to tackle. Sir, the principle of the Bill as I have said is acceptable and agreeable to all except to some honourable legal members here who would like to quibble on legal points and try to show that that man's power is gone, that man's authority is gone, as we saw in the Police Act also. But I look to the greatest good of the greatest number and in that if there is a little flaw here and there I would not mind. Before I conclude, Sir, I do say that I do accept the principle of this Bill though there are defects, yet those defects may be removed after the amendments are moved and I do wish that this Bill, after the amendments are duly considered, should assume such an agreeable and acceptable form that it will be sent back to the Lower House for their final acceptance or approval. But I do appeal to the Prime Minister to be amenable to the amendments which will be moved here and to try to meet our wishes and to join hands with us so that we can unanimously pass all the three readings of this Bill within a very short time.

With these words, Sir, I support the first reading of the Bill.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira): Sir, I heartily support the first reading of the Bill. I am afraid some of our honourable friends opposite have taken rather a wrong view about a democratic institution. If my honourable friend Professor Davar would look up to the administration of his own municipality, that is, the Bombay Corporation, he will find that all the executive powers are centred in the Commissioner and the Commissioner is a Civilian Officer who is—

Prof. SOHRAB R. DAVAR: All powers are not centralised. The Commissioner is one of the three authorities.

Mr. DADUBHAI P. DESAI: But the Corporation simply lays down the policy and passes resolutions.

Prof. SOHRAB R. DAVAR: Corporation's orders have to be carried out by the Commissioner and he has no choice.

Mr. DADUBHAI P. DESAI: That is also here what the administrative officer will be doing, but the Bill here lays down six broad principles and whether this House is agreeable to these six broad principles or not is to be considered. First, it lays down what the duty of Government is to be. Hitherto Government never considered or accepted that it was their duty to see to the expansion of primary education. This is the first time

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that Government come forward and say that it is their duty to expand primary education. That is the first principle that they have laid down in the preamble. The second principle is that universal primary education will be brought about by progressive stages, that is, by progressive expansion of primary education. The third principle is that they have provided in the Bill for the better management of the primary schools. The fourth is the creation of the Provincial Board of Primary Education. The fifth is—I might say as a former president of a local authority for a number of years, though I never had been on a school board—that the local authority is quite extinguished. The sixth is the control of the financial management and the actual administration—I am not talking of laying down what the district policy should be for that will be the province of the local authority—by appointing the administrative officer directly under the control of the Government.

Looking to the first principle, it will be apparent that hitherto the Government were not expanding primary education. Even the normal expansion that was there before the present Act came into existence was not continued. We were going on at the rate of having a certain number of additional schools every year, but that was all stopped by the Act of 1922, and the normal expansion on our side at least stopped, and not only stopped, but by the Act the clock of primary education in our districts was set back. Now here the Government come forward and say that it will be their duty henceforth to see that expansion takes place in primary education, and if for nothing else, for that at least I would congratulate the Prime Minister.

Then there is the acknowledgment on the part of the Minister for Education that compulsory education cannot be enforced all of a sudden, but compulsion will be brought about progressively by normal expansion of primary education. Government have honestly admitted their inability to introduce compulsion all at once, but by stages, as their finances improve, they will be introducing compulsion in this Province.

Coming to the Provincial Board, the Government do not take the power of laying down the policy of primary education. They have entrusted the dictation of this policy to a board on which the elected representatives of the school boards will be sitting; not only the elected representatives of the school boards, but the persons who are expert in education and other people who have experience in education, like my honourable friend Principal Mahajani and such people, will be sitting there to dictate the policy of primary education in this Province. The Government have not kept that part of the duty to themselves. What the Government have particularly taken care to see is that whatever policy is laid down by the Provincial Board, or the district policy as laid down by the school board or the district local board, or for that matter by any local authority, is efficiently carried out, and that is why they have kept the appointment of the administrative officer under their control. Government do not say that the administrative officer will always act according

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to the orders of Government. They simply say that, subject to the rules made in that behalf, the administrative officer will carry out his duties.

Similarly, they have kept the appointment of accountant in their hands, which means that the administration of funds as such, and the responsibility for the due expenditure on primary education shall be in the hands of a man who is trusted and appointed by Government. But the school board will be there functioning all the while. If the school boards do their duty as given by this Bill and the present Act, then their hands will be full. They will have to go to the Government with proposals for expansion, with proposals for increasing the number of teachers, with proposals for starting vocational schools or other types of schools, and all the needs of the district will be voiced by the school board and will be laid before the Provincial Board, which will decide finally whether the request of the school board should be accepted or not. So, to me it appears that, while preserving all the democratic aspects of the old Act, this Bill simply aims at efficient administration of the school boards. It is an open secret that under the present Act all have bungled. I do not mean to say that the school boards alone have bungled. I mean to say that the school boards have bungled, the local authorities have bungled, and last but not least the Government have bungled the most. They have nominated members according to their political requirements. They have carried out the orders dictated by the then Minister, who always influenced the policy of Government so as to meet his own particular political needs, and that is why the whole school board administration suffered. Looking to all that, the Minister has not kept even the duty of recommendation in his hands. He has handed over the whole matter of policy to the Provincial Board, and the Provincial Board, as you know, is composed of really efficient people.

Mr. N. D. DEODHEKAR: On a point of information. Is the Provincial Board an advisory body or not?

Mr. DADUBHAI P. DESAI: The duty of the Provincial Board is to lay their view before the Government, advise Government on all questions of policy. But woe be to the Minister who goes against the advice of the Board!

Mr. N. D. DEODHEKAR: Mine was a simple question as to whether it is only an advisory body or not.

Mr. DADUBHAI P. DESAI: Yes, it is advisory in the sense that you have engineers advising the Minister to construct a particular line of road or tank or canal. Similarly, the Provincial Board, being a technical board, would be advising the Minister, and the Minister, if he has got funds, will ask the school boards to carry out the policy laid down by the Provincial Board. If he has no funds he will say "for heaven's sake spare us from this policy, we have no funds and this policy cannot be carried out". But in all other respects I think the policy as laid

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down by the Provincial Board will be carried out by the Government, whichever Government may be there, and the board is least likely to be influenced by either the general political situation, or the general communal situation, or the intrigues and such other things going on in the school boards. When the Bill of 1922 was on the anvil, we from Gujarat opposed it tooth and nail. Why? We saw in the Bill a retrograde measure, and the Minister of Education had to admit that it would prove not quite a retrograde measure, but it would just enable us to keep our heads above water, we will be just able to swim—these were the words. What does that show? It shows that the policy of expansion that was followed in former days would not be carried out under the Act, and for fifteen years we have suffered. The whole of primary education has gone back; that is, the number of teachers has decreased, the number of schools has decreased. I do not know whether the conditions in the Deccan are the same, but in Gujarat we have suffered under the present Act. Now we can at least come to the Minister and say "Now it is your bounden duty to see that expansion is made all over the Presidency in primary education, and you have got to do it", and he has got to do it, and if he cannot do it, of course the law courts are open.

Mr. N. D. DEODHEKAR: On a point of information. How do the law courts come in?

Mr. DADUBHAI P. DESAI: Because in the preamble it has been accepted as a duty.

Mr. N. D. DEODHEKAR: Can a Minister be hauled up before a court?

Mr. DADUBHAI P. DESAI: No Minister of Government will be hauled up, but you can haul up the Government under the Act.

Mr. N. D. DEODHEKAR: On the strength of its preamble?

Mr. DADUBHAI P. DESAI: The honourable member Prof. Davar has cited the examples of other countries. I think the examples given in the lower House of other countries were refuted by my honourable friend opposite. I say, in those democratic countries where primary education is in full swing, has he ever found that it is hundred per cent. effective? In America, the number of illiterates among the literates, that is those who have attended primary school and after a few years have forgotten everything, is great. In England also the number of those who come out of the primary school and after a year or so forget all that they have learnt in the primary school is not small. There also they do not receive value for money. Why? In the United States, even the children of the members of the education board do not attend schools, their children have to attend to farm duties or work in shops, they fail to attend the schools. So these things are going on even there. This Bill tries to correct even that, and the Minister does desire to have full value for the money that he gives.

The Honourable the PRESIDENT : I think it is time to adjourn for
 3-30 p.m. tea, unless the honourable member thinks that he
 will not take more than five minutes.

Mr. DADUBHAI P. DESAI : I will close in a minute, Sir. And in those countries full value for money is not given because of some inherent defects in the administration. Now, here even those inherent defects are tried to be remedied. That is what I wanted to convey to the honourable members opposite.

With these remarks I heartily support the Bill.

(The House re-assembled after tea at 4 p.m.)

**BILL No. III OF 1938 (AN ACT TO PROVIDE FOR THE
 RELEASE ON PROBATION OF OFFENDERS).**

(Message from the Assembly.)

The Honourable the PRESIDENT : We have received the following intimation from the Assembly :

"In accordance with Rule 21-I (1) of the Bombay Legislative Assembly Rules, I am directed to inform you that the amendments made by the Legislative Council in Bill No. III of 1938 (An Act to provide for the release on probation of offenders) were taken into consideration by the Legislative Assembly at its meeting held on the 3rd May 1938 and that the Legislative Assembly has agreed to the amendments."

**BILL No. XV OF 1938 (AN ACT TO AMEND THE BOMBAY
 PRIMARY EDUCATION ACT, 1923).**

The Honourable Mr. B. G. KHER : Sir, I find that there are only two honourable members who have expressed their strong disapproval of the measure that is now under discussion. In the first reading I had suggested that because of our experience of the last 15 years of the working of the Act of 1923 we found the following, namely :—

(1) The elections of the school boards had often been made not in the interest of education or on the merits of the members but on communal or party considerations.

(2) Very frequently there were conflicts between the local authorities and the school boards and each was trying to grab more power for itself.

(3) The local authorities exercised their power of appointing administrative officers, who are their chief executive officers, on extraneous considerations such as, communalism, nepotism, etc.

(4) The position of the administrative officer had been rendered very insecure and difficult, in some cases intolerable.

I have explained how he had to depend on the whims and fancies of individual members of the school boards for his continuance in office.

(5) The appointments of supervisors also had been made not on merits but on irrelevant considerations.

(6) The lot of the teachers had become absolutely inconceivable.

I referred to the transfers of teachers and to their promotions and other difficulties.

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I also drew attention to the way in which our expectations as to the expansion of the schemes of education had not fructified. The problems of wastage and stagnation became more and more acute day by day, and I had also outlined the improvements that this Bill now seeks to introduce.

Now, in answer, what are we told? The honourable member Mr. Deodhekar put before us four or five objections with which I propose to deal, in as brief a compass as possible. His first objection was that we are in a great hurry. And this objection was repeated by other members also. Another member referred to the break-neck speed with which we are legislating and a third honourable member said that we are simply rushing measures through. And in all good humour they said that we should give more time to the people to reflect upon and digest the very good food that we were providing for their consumption.

Now, whatever may be the applicability of that charge with regard to our other measures, I think in the matter of this Bill it is singularly unhappy. One of the first announcements that Government made in July last in the Poona session was about their education policy, and in very clear terms they gave the whole public to understand that no further grants could be made and no more money could be provided for education until the whole machinery was overhauled, because it actually needed overhauling in the light of the experience that Government had obtained from several people who had administered the old Act of 1923. In July last, this Government themselves had no experience, but thereafter in a very short time we could pick up all the threads and get all the information ready and we found, as a matter of fact, that whatever was alleged against the failure of this system was absolutely true. After that, in February of this year, I think practically all the features of this Bill were referred to by the Honourable the Finance Minister in his budget speech. It is now over two months since then. Not only have we not received many objections to it, but some Presidents or ex-Presidents of Municipalities, and of School Boards, people who have had administrative experience of these School Boards and the educational administration in the Province confirmed our own views as regards the maladministration and the corruption that had resulted. To charge us, therefore, with being in a hurry in this particular measure does not seem to be justifiable.

The second objection of the honourable member was that in this scheme, although it purports to be a Bill to provide for the expansion and development of education, there are no provisions, no schemes for expansion. Now, the honourable member ought to know that schemes for expansion of primary education are not matters to be put in an Act of the Legislature. The honourable member must be familiar—I know he is a member of a school board—with the provisions of sections 10, 11 and 12 of the old Act which deal with this subject and I do not think,

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therefore, that he really meant anything serious when he said that we have not put schemes for expansion of education in this Bill. Evidently, from the nature of things, no schemes for expansion of primary education could be put in the Bill.

Then his next criticism was that on the Provincial Board of Primary Education only six members are going to be elected and although we were abolishing nominations in all representative institutions on this body, which according to him is to control the whole system, we had shown great love for nomination. I think very nearly I am quoting his very words. Now, I cannot understand what the honourable member's view about nomination and election is. If Government want expert advice on medical matters, is it necessary that Government should go on asking people to elect doctors? If Government want people who have experience, who are qualified by their study, by their experience of education, to advise them, is it his idea that Government should not appoint the committee, but that every committee, every advisory board which Government wishes to consult, must be an elected body? I cannot understand this. On a body like this where there are 12 members, it is necessary—

Mr. N. D. DEODHEKAR: What was the nature—

The Honourable Mr. B. G. KHER: The honourable member will not interrupt me. I did not interrupt him. If he has a point of order to raise, he will appeal to the Chair.

Mr. N. D. DEODHEKAR: What was the nature of nominations in the local self-government bodies which Government abolished?

The Honourable Mr. B. G. KHER: That has nothing to do with this point at all. We want here a body of persons to advise on problems of education, and it is no use having all sorts of elected people on it. It is to be an expert body which has to provide Government with the knowledge of a sound system of education and of the differing conditions of the Province, and therefore it is necessary that six should be nominated by Government. This charge again, I must say with great respect, is brought without any foundation whatever. The honourable member Mr. Deodhekar seems to be the "Jamnadas" of the Upper Chamber and I say that he is faithfully reproducing all the objections which were urged in the lower House from his party. I do not blame him for it.

Mr. N. D. DEODHEKAR: Thank you.

The Honourable Mr. B. G. KHER: But he will allow me to answer in the same terms, without repeating our arguments at the same length. I appeal to the honourable member that on an expert board like this he ought to agree that it is not right that Government should have all elected members. We cannot shut our eyes to realities. If you have 12 elected persons, all elected by the school boards, on this body, you have the reflection of the same communal

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elements, people who are not entirely fit will find a place on the board. What is worst, people whom you would find invaluable, whom you would want to consult, would not be available to you, because they will not necessarily be the people who will brave all the trouble that an election involves, who will find favour in the eyes of the school boards who are to elect them. Government had originally intended to allot only 4 seats for election by the school boards, but afterwards in the Select Committee the matter was discussed and it was thought that six members from the school boards would be quite sufficient to reflect the local conditions and that Government should nominate six members on the Board but that all of them should not be officials. There should be a non-official majority; otherwise, it was urged and rightly urged that Government might force their policy on the people through this Board. Honourable members will see, therefore, that not more than three members will be Government Officers. It may be asked, "Why are these officers necessary?" They are necessary simply because the knowledge of the department will have to be placed at the disposal of the Board. These people will have to place at the disposal of the Board the opinion of the administration and, therefore, their usefulness cannot be questioned. Then there will be people who are experts in education, they will have to be provided for, because the vagaries of the election are too well known to us to leave the whole Board to be elected by members of the school boards. That is why it was decided that six members should be elected and the other six should be nominated, out of whom three should be officials and three should be non-officials, experts in education.

Then the honourable member had his own criticism to make about our agreeing to give some consideration to the claims of the different communities and not providing for their representation on the Board in the Bill, but by rules or by giving assurances, and he said that this was inconsistent with Mahatmaji's principles of honesty. Now, I can assure the honourable member that there is no question of dishonesty in this. Situated as we are in a country like ours, it is necessary to take account of all various communities which desire to be provided for. We know even in a small House like this, whenever there is a question of communal representation, the Mahomedan representatives get up and say "You must reserve so many seats for the Mahomedans". Then there is Dr. Solanki. He is there to represent his community and he says "You must make provision for my community". No doubt, there is some truth in the contention that there are some differences in their needs in the matter of education. It is necessary that regard should be had to the interests of all the different communities with their distinctive needs. I do not think there was any substance in the charge that the honourable member levelled against us. Then he said that this was a measure which was being enacted *ex-parte* and that the school boards were not consulted. My answer to that is that we had put our intention before the country nearly eight months before. Teachers' conferences

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have been held in most provinces; they have voiced their views by means of resolutions. They go to the length of asking us why Government are not going to take the power to appoint teachers also. This charge that we did not specifically ask School Boards to express their views on the matter is not, I think, a very substantial charge to make against Government.

Then the honourable member said that the ulterior motive, the secret design of the Government, in putting this measure on the statute book was that they were committed to bring the Wardha Scheme into existence and the Wardha Scheme was something like the promise of a person who offers to duplicate notes; the scheme promises that education will be self-supporting and all sorts of wonders like a magician offering you all sorts of wonderful solutions and that Government was committed to it. Therefore, Government were taking all these powers into their own hands. I do not think there is any necessity for passing any Act to bring in the Wardha Scheme at all. The Wardha Scheme is not being brought in surreptitiously by any secret or back door as was alleged in the Lower House. It has been before the country for a long time. It has been considered by Government committees. A committee appointed by the Central Advisory Board at Simla is also going to consider the Wardha Scheme. All the provinces are already in touch with the views that have been propounded by the Wardha Committee. The Central Provinces have already adopted the syllabus that was recommended by the Wardha Committee. This Government, if it finds on expert advice that there are things in the Wardha Scheme which are sure to result in benefit to the system of primary education in the country, will certainly adopt such proposals of the Wardha Committee as are likely to benefit the primary education in our province. I do not think it is necessary to make any charges of secrecy against us. My own view about the Wardha Scheme is that it is a very sound scheme. It is based on the need in the method of teaching of going from subjects to activities, of making education democratic in this sense that up to now you have had a different system of primary education. You used to give elementary education only to the masses. What was thought sufficient was that the people at large, those whom you call the masses, should be given what is known as elementary education—the three R's. That was thought enough for them and the secondary education, a little higher education than that, should be had only by those who can afford it—by those whom you now call the classes. I may tell the House what the most recent thought in the field of education is in Germany and in other countries. I would refer the honourable member to an excellent monograph on this subject that was read by Dr. Kendall in the London University. He had no notion then of the Wardha Scheme as the monograph was written in the year 1935. He has said that the slogan of education in these days should be that you should have democracy in education and not have one type of education for the masses and another type of education for the classes. The level of education should be raised and the State should give to all subjects a higher level of education at its own expense.

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You should not have two types of education. That is one sound principle which has been embodied in the Wardha Scheme. The second principle is that instead of making people learn only subjects—book learning—you should evolve all those potential capacities which are present in the child by means of some activities and not by means of making them cram books and subjects, that is, we should go from subjects to activities. This again is the principle which has been included in the Wardha Scheme. The Wardha Scheme does not stand in need of any legislation or any kind of clandestine support from us in this manner whatsoever. The Wardha Report will be considered by all the provincial Governments in the country and whatever is good in it will be adopted. Much of the criticism that is levelled against it is due to ignorance ; we often try to read into it what is not intended by the authors and then we go on attacking it.

I have so far answered the six points raised by the honourable member Mr. Deodhekar. His seventh point is that after we pass this Bill no work would be left for the school boards. That only shows that the honourable member has no notion of what the school boards ought to do, but he has a correct notion of what they have been doing so far. He thinks that once you take away the power of appointing the administrative officers and of transferring teachers and intriguing, then no work would be left for the school boards. Not only the honourable member Mr. Deodhekar but other honourable members also who spoke seemed to be under this wrong impression. (*Interruption.*) I am coming to democracy presently. It is only the want of time that makes me think whether I should not try to curtail my remarks. To say that no work would be left for the school boards is absolutely incorrect. Of course, it is not correct to say so about the present conditions because the school boards today perhaps do nothing but engage themselves in intrigue and in the appointments of administrative officers and transfers of teachers and in all sorts of corruption. A majority of them do that. From that point of view you may say that no work will be left to them and that their existence would be rendered useless. But these are not the legitimate duties of the school boards. Their duties have been very elaborately provided for in the rules and I will just mention a few. They have the power to enforce the provision of this Act and of approving private schools. I had better give the honourable member a resume of all the powers and the duties of the school boards. They are : The election of the chairman ; fixing days and attendance in schools ; appointing staff, issuing orders to parents and filing complaints, regulating the conduct of schools, fixing locations of schools ; preparing schemes of voluntary and compulsory education ; appointing clerks and attendance officers and power to dispense with their services ; to determine school hours, holidays and vacations ; to alter the studies, with the sanction of Government, to suit local requirements. All these powers, which I have read, are retained. Further, to fix the meetings, maintain the primary education fund, to prepare the annual budget and so on.

Well, these are some of the duties and powers of the school boards and the only power that is taken away from them is the power of appointing

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the administrative officer and of punishing the poor school teachers. By its very nature the school boards are unsuited to make appointments, and I say that if you leave to a large body of elected persons the power of appointing an officer, particularly in a country like ours where there are so many interests, so many castes and so many communities, you are bound to find that that power will be exercised on grounds which are not those which have only the interests of the people at heart. The honourable member's charge, therefore, that nothing will be left to the school boards is utterly unfounded.

Then I will go to another honourable member, Dr. Mahajani. He wants that we should put a time limit for the spread of primary education in the Bill. Well, the Chandavarkar Committee had put a time limit. But we find that during the last 15 years we have not been able to achieve much. By its very nature, this subject is such that you cannot promise that within a particular time you will do this and you will do that. I for myself am very anxious to push on the cause of education as quickly as possible, but it is impossible to lay down a time limit. Do not say in the preamble "Whereas by 1942 we want to do such and such a thing, therefore this Act is enacted." I am sure, the honourable member

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will realise the futility of fixing time-tables in a matter which is so uncertain. It depends on funds, it depends on the capacity to administer, it depends on how we are able to improve the administration. So this objection has not as much validity as it would otherwise have had. He suggested that the administrative officer's position as regards the staff is not defined and therefore it might result in friction, because the power of appointing the staff will be in these boards. The honourable member would have us take over everything practically. He would say like some other members: Take all the powers and abolish the school boards altogether; but this Bill does not propose to do that. It leaves all the other powers in the school boards. It only removes their powers in the matter of making appointments of administrative officers and supervisors. About the qualifications of the administrative officers and about the qualifications of members I must tell the honourable member that we had originally started with the matriculation as the qualification. It was ultimately found as a result of discussions in the Select Committee and in the Lower House that we had to take cognisance of the realities of the situation in the country. It is all right to say, make it matriculation. You will see that in small villages who are sending up people, with adult franchise everybody will get a vote and it would be very difficult to have qualifications in the members which you would like to impose.

Then the last grievance of the honourable member, he described as a standing grievance. I do not propose to refer to it at length. He said we did not appoint a Joint Select Committee of both Houses. I think the honourable member was referring to rule 21J of the Bombay Legislative Council rules which reads:

"If a resolution is passed in the originating Chamber recommending that a Bill should be committed to a Joint Committee of both Chambers, a message shall be sent to the other Chamber to inform it of the resolution and to desire its concurrence in the resolution."

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The honourable member will see the difficulties. I quite appreciate the desire and I am not at all averse to it, but our own legislatures are slowly getting accustomed to the duties and the powers and the facilities that are contained in this Act.

Dr. G. S. MAHAJANI : My suggestion was for the future.

The Honourable Mr. B. G. KHER : I do not know how exactly it is going to be worked out. I had thought that in important measures it would save time and it would perhaps be very good to have joint committees. That is a matter which will have to be decided. There are people who do not like the very existence of this House. There are others who think that this House is an anachronism. This is a standing grievance and as such we shall let it stand at least for this Bill because we could not possibly amend it now. Then he unnecessarily and, as he himself admitted, irrelevantly referred to the appointment of several non-official committees on which members of this House were not appointed. Well, as I said, this is not a matter on which I should devote any length of time in this speech. I am quite alive to the fact that there is much wisdom in this House of which we should avail. The honourable member himself is advising Government about the way in which we should convert the Deccan College into a post-graduate institute. The honourable member Dr. Solanki is a member of the Backward Class Committee. There is no objection to having members of this House on committees, but perhaps it has happened that no one has been appointed. Particularly, the instance which he gave about Mr. Joshi not being included in the Rent Committee was not a happy one. Naturally when a member's views are perfectly well known, we appoint some other people on a committee. We need not go into the question of the members of this House not being appointed to non-official committees and I think the honourable member will be satisfied if I give him my frankest opinion that there are many people in the House for whose experience and for whose great ability we have the highest regard and whenever it is possible for us to avail ourselves of that experience and ability we shall certainly remember and do our best to do so. (*Hear, hear.*)

The honourable member Khan Saheb Khan agreed completely with our diagnosis of the diseases, but he did not approve of the remedy that was being applied. He somehow seemed to be under the impression that the Provincial Board of Primary Education would be keeping the Local Boards under its tutelage. The Provincial Board is an advisory body. No doubt, it is a very important body, but it is not a body which will go and sit in appeal or judgment on the school boards and his expectation that there will be a sort of tutelage is not at all correct.

Then he suggested, according to him, two remedies. He agreed with my diagnosis and differed from the remedies that we applied. Let us examine the remedies that he suggested. He said that in the old Act the powers of the administrative officer were nowhere defined. He referred to the Municipal Boroughs Act and he said that the administrative

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officers should have been rendered independent. This is precisely what our Act is doing. The powers and duties of the administrative officers are going to be defined by the rules that are to be laid down under this Act. So one of his remedies is already in this Bill and the second remedy was that the qualifications of the members of the school boards should be increased and they should be at least matriculates.

Khan Saheb A. A. KHAN : Graduates.

The Honourable Mr. B. G. KHER : As I understood you I thought you would have matriculates. It is a very good ideal to have on the school boards all graduates, but I do not think that graduates have the monopoly of all the wisdom. Some of the worst administration against which we are complaining has been experienced at the hands of people who have been graduates. That is what our past experience shows. So that although I do not share the prejudice of some honourable members who would say that those who are graduates are not at all qualified to advise in matters of education, I do not admit the principle that merely by making the membership qualification that of a B.A. or an M.A., the whole education is going to improve. I am personally willing to have as high a qualification from the point of view of education as is possible, but as the honourable member will admit, we have to see what conditions are to be found in our districts and in this vast country where only 8 per cent. of our population are just able to read and write—that is the average level of the education of the people whose representatives have to go in these school boards—there is a great deal of opposition to this suggestion from those who have been up to now considered backward. I am very happy to find that the honourable member Khan Saheb Khan himself does not think that the Mahomedan community as such has anything to complain about if such a measure were enacted, but there are other people of his own community who do not think that such a high standard should be imposed, as otherwise they think their community will suffer. So far as the non-Brahmin party is concerned, they said : If you really wish that we should have any interest left in education, that the bulk of our people should be connected with the administration of education and that is essentially necessary if we want that our educational system should succeed, then your keeping the qualification of members of the school board too high is going to frustrate your object. So that even the matriculation standard and the vernacular final standard which we had put in the Bill had, at their earnest entreaties, to be modified in the way in which it has been modified so that this measure now represents the greatest common measure of agreement of people who are no doubt vitally interested in the education of their children, as also the needs of education.

Then, Sir, we come to the honourable member Prof. Davar. He naturally, as he admitted, had no knowledge of the school boards in the districts. That was evident from the criticism which he made. He thought, however, that democracy was in danger if we pass this Bill. I can assure him that democracy is perfectly safe. The fact that the

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school boards could not appoint proper people to administer the affairs of education does not show that democracy has failed. After all, if you went and got up a meeting of children and asked them to elect a teacher they will probably vote for the man who will give them plenty of sweets and no lessons and you cannot say that therefore democracy has failed. If you went to the teachers and asked them to decide their own salaries and such other matters they would certainly not be in a position to give you proper advice. So that we need not complain that proper officers were not appointed and that the administration was not carried on in the way in which it ought to have been done, and that democracy was endangered. This has nothing to do with democracy at all.

Prof. SOHRAB R. DAVAR: Excuse me, but I never said that democracy was in danger.

The Honourable Mr. B. G. KHER: Then I must have made a wrong note of it. I am very happy, because there was such a great deal of criticism in the Assembly on this score, and I thought this was a reflection of it, that our Bill goes against the whole principle of democracy. I think the honourable member Mr. Deodhekar shares the same view, that it is anti-democratic.

Prof. SOHRAB R. DAVAR: On the contrary, I have so much faith in democracy that I want the Bill to be based on democratic principles. I did not say that democracy has failed.

The Honourable Mr. B. G. KHER: We are at cross purposes. The honourable member told us that by bringing in this Bill we are going against democratic principles, and I am answering that point, namely, that this Bill does not affect democracy at all. He went to the length of saying that Spain is involved in this war because primary education was not administered in Spain by local authorities, and if the Spanish local authorities had administered primary education, then the war could have been avoided. I do not think the honourable member literally means that. Otherwise, in our own country, to ensure that there should be no war or other strife in future, all that is necessary to do is to allow local authorities to administer, and if they choose to mal-administer, not only primary but all kinds of education, and that will be an insurance against war.

Prof. SOHRAB R. DAVAR: If they are properly constituted.

The Honourable Mr. B. G. KHER: There are so many "if's" and so many conditions: aren't there! If everything is properly done, then I am sure every bad thing could be avoided. But we have found as a result of experience—and there is no use denying these facts, whatever may be the honourable member's experience in Bombay—that the power of appointing officers and controlling them is not a power which can be administered by these school boards properly. The honourable member's apprehension that all their other powers are being taken away is not correct. Everything is being left intact excepting the

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power of appointing the administrative officers. And this power too was not in the school board. The local boards used to appoint the administrative officers and their appointment was subject to the approval of Government. The honourable member's objection is based on the fact that the Bill in his opinion is an anti-democratic measure, because it goes against the principle of entrusting more and more powers of administration to the local bodies. That principle according to him is violated by this Bill. I assure the honourable member that, after all, education, as has been observed by the Hartog Committee, is a national service. It is the responsibility of the Government. Government have found that the present administration has resulted in nepotism. The power of transfers and promotions is one which ought not to be left to a large body which is likely to be swayed by so many improper considerations. If that power has been wrongly exercised in the past, that is good reason for Government taking that power into their own hands, so that there may be a cadre of administrative officers who can be transferred from one district to another, who will be sure and secure about their service and who will not be subject to the whims and caprices of a number of members of the school board. That deals with the objection which was raised by the honourable member Prof. Davar.

The honourable member Dr. Solanki was generally in favour of the Bill. He wanted an assurance that the interests of the backward classes would not be neglected. I can assure the honourable member that in every measure that this Government takes, they have due regard to the welfare of the public as a whole and also of people of the different communities. In the last administration scheduled class boys were not admitted into the schools, and we had to take very strong action against people who refused to admit scheduled class boys and this will be remedied in future, as the administrative officers will have to carry out the Government policy. I have dealt in brief with the various points raised in opposition to the Bill. I think on the whole the sense of the House is not only in favour of putting the first reading through but is a general approval of all the provisions of this Bill.

Question, "That the Bill be read a first time," put, and agreed to.

The Honourable Mr. B. G. KHIER: Sir, I move that Bill No. XV of 1938 be read a second time.

Question put, and agreed to.

Bill read clause by clause.

Clause 1 (*Short title*).

(1) This Act may be called the Bombay Primary Education (Amendment) Act, 1938.

(2) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint.

Mr. N. D. DEODHEKAR: Sir, I beg to move:

In clause 1 (2) at the end add the following words, namely:

"and shall remain in force up to 31st March 1941".

Question proposed.

Mr. N. D. DEODHEKAR : The reason why I want to move this amendment is that I think three years' time would be sufficient to have experience under the new Act. It is my sincere conviction that we shall have to go back again to the old Act and again give the local authorities the power of appointing their own administrative officers and the whole of the staff. That is why I have moved this amendment.

The Honourable Mr. B. G. KHER : Sir, this is too pessimistic. If we find from experience in 1941, as the honourable member prophesies, that it is necessary to amend the Act, then we can bring in an amending measure. There is no reason why this Act should remain in force for a limited time. If we want to improve, let us have full improvement, and not improvement up to a limited time.

Amendment put, and negatived.

Clause 1 ordered to stand part of the Bill.

Clause 2 (*Amendment of preamble to Bom. IV of 1923*):—

In the Bombay Primary Education Act, 1923, hereinafter called the said Act for the preamble the following shall be substituted :—

"Whereas it is the duty of Government to secure the development and expansion of primary education : and whereas it is the declared policy of the Government that universal, free and compulsory primary education should be reached by a definite programme of progressive expansion and whereas it is expedient to make better provision for the development, expansion, management and control of primary education in the Province of Bombay ; It is hereby enacted as follows :—"

Mr. N. D. DEODHEKAR : Sir, I move my amendment to clause 2, which is as follows :

In clause 2, after the words "progressive expansion" add the words "within the next 10 years".

Question proposed.

Mr. N. D. DEODHEKAR : Sir, the reason why I move this amendment is that so many years, nearly 15, have already gone by since the Primary Education Act came into force. My honourable friend Dr. Mahajani in his speech just asked as to who is responsible for this loss of 15 years, there being no development of education in that time. If we analyse the causes, then we shall have plainly to admit that it was the boycott of councils policy that was responsible for whatever loss has occurred in this direction. That is why I have these 10 more years, so that 15 plus 10 make 25 years, which is the life time of a generation. That ought to be time enough for Government to bring about universal primary education, and I hope the amendment will be accepted by Government.

The Honourable Mr. B. G. KHER : Sir, this is a very curious argument. Out of 25 years 15 are gone before we are born. We are now given 10 years more. I do not see how we can say that it is the declared policy of Government that there should be progressive expansion within the next 10 years only. Why ! It may be earlier than that.

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Let us hope it will be earlier. It is, for reasons which I have stated, impossible for us to commit ourselves to a time table. Otherwise it would result in the same anomaly which we found resulting from this preamble in the present Act which we are now changing. It is said in the present Act "so as to reach that goal on the lines recommended by the Compulsory Education Committee appointed by the Government," and you see now that another ten years are being voluntarily offered by the honourable member who is so enamoured of the old Act. Nothing could be done although not only 5, as the Chandavarkar Committee wanted to say, but 15 years went and we are not even on the fringe of the problem, so that it is no use making time-tables and then again changing them from time to time.

Mr. N. D. DEODHEKAR: Sir, I really wonder at the Honourable the Prime Minister's taking objection to a time-table. From the very commencement of the Congress satyagraha career in the political field, we had so many time-tables, e.g., Swaraj within one year, in nine months and so on. Unfortunately, they were failures and that is why I have given a long period. I was charged some time back with being pessimistic, but if the Honourable the Prime Minister is optimistic and he promises that within ten years we can have all these compulsory schemes put into effect, I shall be very glad.

Sir, our Board sent schemes after schemes to Government and Government was not able to supply the money. For example, my board after taking charge of primary education at once voluntarily increased the taxation by one anna for providing for education and we raised Rs. 80,000 expecting that Government would give Rs. 1,60,000, so that we shall have every year Rs. 2,40,000 for our educational schemes, but they could not come into force because Government shirked. Now, we are having schemes which will make education self-supporting and thus there being no financial difficulty, ten years ought to be sufficient for expansion of education. If it could be done earlier, none shall be more glad than myself.

The Honourable Mr. B. G. KHER: Sir, it is not possible for us to commit ourselves to any time-table. As regards "Swaraj within one year" the honourable member at one time apparently was of the same view, because he was one of those who I think were with me on the "Swaraj within one year" scheme and we have both of us spent many a happy day in the Thana jail. I see now that he has learnt wisdom after coming out. I am still unconvinced of the desirability of putting into this Preamble, ten years, or five years, or any definite number of years. The sooner the honourable members help us to expand education, the better for the country, but it is no use putting time-tables.

Question put, and negatived.

Clause 2 ordered to stand part of the Bill.

Clause 3 (*Amendment of section 2 of Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 4 (*Insertion of a new section 2A in Bom. IV of 1923*):

4. After section 2 of the said Act the following new section shall be inserted, namely:—

"2A. *Provincial Board of Primary Education.*—(1) There shall be a Provincial Board of Primary Education, consisting of twelve members, of whom six shall be elected by the school boards in the manner prescribed. The remaining six, out of whom not more than three shall be Government officers, shall be appointed by the Provincial Government. The members of the said Board shall hold office for a period of three years.

(2) The elected members of the said Board shall be persons having any of the following qualifications:—

(a) a graduate of seven years' standing of any recognised University,

(b) a professor who has served for a period of five years in a recognised college in the Province of Bombay,

(c) a head master of ten years' standing of any recognised secondary school in the Province of Bombay.

Explanation.—For the purpose of this sub-section, the expression "recognised" shall mean recognised by the Provincial Government in this behalf.

(3) The said Board shall elect its president from amongst its own members and his term of office shall be co-extensive with that of the Board. Out of the members appointed by the Provincial Government one member selected by the Provincial Government and belonging to the Educational Department shall act as Secretary to the Board."

Mr. N. D. DEODHEKAR : Sir, I beg to move :

"In clause 4, 2A (1), for the word 'six' in line three, substitute the word 'eight', and for the word 'six' in line 4, substitute the word 'four'."

Question proposed.

Mr. N. D. DEODHEKAR : Sir, by moving my amendment, I have tried to enhance the element of elected members in the Provincial Board of Primary Education. As we know, it consists of 12 members and Government says that there should be six members who should be elected and the other six should be nominated. Generally we find that in all the local boards we have got always three-fourths seats which are filled in by elections and, when it comes to nomination, it is only about one-fourth of the seats or 25 per cent. So, herein by my amendment I have provided that only four shall be nominated. That will give Government sufficient opportunity of having experts appointed as they wish and the element of election of two-thirds will also be secured.

With these words, I move my amendment.

The Honourable Mr. B. G. KHER : Sir, we had originally got 4 members as nominated, but we found that the utmost length to which we could go would be six and it would be necessary to have at least six nominated members on the Board. There is, therefore, no necessity,

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as the honourable member suggests, to increase the number of elected members.

Question put, and negatived.

Khan Saheb A. A. KHAN (Central Division): Sir, I beg to move :

"In clause 4, 2A (1) after the words 'Government Officers' and before the words 'shall be appointed' insert the words 'and not less than two shall be Mahomedans'."

Question proposed.

Sir CURRIMBHOY EBRAHIM: Sir, in support of this amendment I would request the Honourable the Prime Minister to give me a verbal assurance regarding this.

Khan Saheb A. A. KHAN: Sir, the reason why I move my amendment is this. I have already stated in my speech on the first reading of this Bill that, in matters of education, I do not insist upon the representation of Mahomedans on the Board. But in the case of primary education it is essential that there should be a Mahomedan member because primary education to Mahomedans will be imparted through the means of Urdu and it is, therefore, essential that an Urdu knowing member should be on the Board.

The Honourable Mr. B. G. KHER: On this Provincial Board of Education, as the honourable members will see, the section does not make any provision for communal representation or election on communal basis. But, as I stated in the Lower House, we will see generally that among the members who are elected by the school boards, due provision will be made by rules for the election of a Muslim member. The honourable member Sir Currimbhoy ought to know that it is not necessary for me every time to repeat that that has been the understanding. I quite admit that in a country like ours there should be at least one member on the Board who knows what are the needs and what are the special requirements of the children of the Mahomedan community in the matter of education and due provision is going to be made for this by the rules.

As regards the amendment, I oppose it. We cannot possibly provide in the section itself that out of six members two shall be Mahomedan members.

Khan Saheb A. A. KHAN: In view of the assurance that has been given—an assurance which I accept at this stage and I am waiting to see how far it is carried out in future—I beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

Khan Saheb A. A. KHAN: Sir, I beg to move :

In clause 4, 2A (2), delete the word "elected".

Question proposed.

Khan Saheb A. A. KHAN : Sir, in moving this amendment, my object is to see that the qualifications which have been provided for the elected members shall also be the qualifications which the six persons who will be nominated by Government will possess. I think the Prime Minister will agree with me that it is desirable that even the nominated members should possess at least these minimum qualifications, if not more.

The Honourable Mr. B. G. KHER : Sir, I oppose this amendment. The honourable member Khan Saheb Khan wishes that the word "elected" should be deleted. Government will certainly appoint on the Board persons who are experienced in education, but we cannot bind ourselves to the three qualifications that are put here, namely, a graduate or a professor or a head master. There may be some people who may not have these qualifications, but who may be eminent authorities on education, and it may be necessary to have their advice. It is not desirable to fetter the choice of Government by insisting on these qualifications which are the least qualifications which are provided for the members whom the school boards will elect.

Khan Saheb A. A. KHAN : By way of reply I just want to say that if these are the minimum qualifications, then surely these eminent authorities on education, whom the Honourable Minister has in mind, would be possessing these qualifications. Then where is the harm in accepting this amendment ?

Amendment put, and negatived.

Khan Saheb A. A. KHAN : Sir, I beg to move :

In clause 4, 2A (2), (c), for the words "of ten years standing of" substitute the words "who has served as such for 10 years in".

Question proposed.

Khan Saheb A. A. KHAN : The reason why I have moved this amendment is to make the position clear. As the clause reads, a head master of ten years' standing of any recognised secondary school in the Province of Bombay will be eligible for election. This will exclude a person who has served for 10 years as a head master and who has retired since then. I want this person to be included.

The Honourable Mr. B. G. KHER : It is purely verbal because nobody can be a head master of ten years' standing unless he has actually served for 10 years ; but it does not mean that a man must be of 10 years' standing and then he must be a head master.

Dr. G. S. MAHAJANI : That is not the point. The point is whether at the time of the election the man must be in office as head master. The honourable member Khan Saheb Khan wants that a man who has actually served for 10 years as a head master and who has then retired, that is, a man who is not actually a head master at the time of the election, should not be disqualified.

The Honourable Mr. B. G. KHER : The honourable member will see that in the case of a professor the phraseology that has been adopted is "a professor who served for a period of five years". The honourable member wishes to have the same phraseology in this case also. But we must have a person who is actually working as a head master so that he can advise the Board as to what are the needs of the department. That is why a different phraseology is used here. In the case of a professor he must be a professor who has served for a period of five years, while in the case of the head master he must be serving as a head master at the time of the election. That is what is desired. The head master must be a man who is actually running an institution.

Mr. S. C. JOSHI : Suppose, the man who is elected was a head master at the time of the election and then he ceases to be a head master. Will he cease to be a member of the Board ? According to the wording, as it stands, he will be disqualified. The effect of this wording is that a person who is elected should continue to be a head master throughout the period he is a member of the Provincial Board. I think in the case of the head master the phraseology used in the case of the professor should be adopted.

Khan Saheb A. A. KHAN (Central Division) : My point in moving this amendment is that if clause (c) stands as it is, only head masters who have put in 10 years service and who are actually serving as head masters will be eligible for election ; whereas, by amending this clause as suggested by me head masters who have served for 10 years as head masters and who have since retired will also be eligible. I do not see any reason why such people should not be eligible for election. There may be a man who has efficiently served as a head master for 10 years and who retired only six months before and who is willing to serve on the Board. Why should such a person not be eligible for election ?

The Honourable Mr. B. G. KHER : Sir, I accept the honourable member's amendment, whatever its effect may be. Let it be.

Amendment put, and agreed to.

The Honourable the PRESIDENT : The next two amendments are in the name of Dr. Mahajani. There is one suggestion which I wish to make, which is that he will treat them as one.

Dr. G. S. MAHAJANI (Poona *cum* Satara) : Sir, I beg to move :

"In clause 4, 2A (4) add the following new clause after clause (a) :—

'(b) to make recommendations and to advise the Provincial Government in the matter of preparation and use of text books in primary schools.'

and renumber clauses (b), (c) and (d) as (c), (d) and (e) respectively.'

Question proposed.

Dr. G. S. MAHAJANI : Sir, my object in moving this amendment is to clarify the present position. As it is, the powers of the Board will be sufficiently wide, but I have noticed that the school boards have been empowered to select text-books from among the list as sanctioned by the Provincial Text-Book committee. Now I am not sure that the Government have come to know that a real evil exists in this matter. I have had various discussions with men connected with primary education and I find that year after year these text-books are changed simply because the members in the school board are interested in one author this year and in another author the next, and a lot of evil is created in that way. Not only the students, but even the parents suffer. Formerly it used to be the case that if three brothers were learning in a school the elder brother could teach the younger brother, because there were the same text books. I do not deny that there is a point in changing text-books often, as there is progress in knowledge, but the changes in the appointed text-books that come are governed not by these academic considerations but by considerations which are far from these academic considerations. A lot of canvassing goes on and if you retain—as I understood when the Honourable the Prime Minister read out the functions of the school board—if this power is still to be retained in the hands of the school boards, it will be an evil, but if it is proposed under the rules and an assurance is given that this will be included among the functions of the Provincial Board, then I shall be satisfied ; otherwise I suggest that this amendment which is a reasonable one should be accepted.

The Honourable Mr. B. G. KHER : Sir, even today there is a text-book committee which prescribes text-books which are sanctioned and the school boards have to adopt books out of those. Now it is proper that this Provincial Board should have the power and the duty of making recommendations and advising Government in the matter of text-books, but if the honourable member turns to clause 4, 2A (4) (c) and (d) of this Bill, he will find the powers and duties of the said Board :

“(c) to advise the Provincial Government generally on all matters connected with primary education ;

(d) to exercise such other powers as may be conferred on it and to perform such other duties as may be prescribed by rules or by any other law for the time being in force.”

So that it is perfectly competent to the Government to prescribe by rules that this may be one of the things the Board should do and it is Government's intention to consult them. I do not think I need add anything further except to say that we cannot accept the amendment.

Dr. G. S. MAHAJANI (Poona *cum* Satara) : Sir, with regard to the first point, I quite agree that the school boards have to select books from among the list that has been recommended by the Provincial Text-Book Committee, but what happens is this that the Provincial Text-Book Committee recommends a number of books. There are say 20 books recommended in the list : then among these 20 authors of text-books there is a regular competition and they go about canvassing with members when it becomes the business of the school board to

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select. There the evil exists. But if it is the intention of the Honourable the Prime Minister to transfer this power to the Provincial Board in the rules, then I beg leave of this House to withdraw this amendment.

Amendment, by leave, withdrawn.

Mr. S. C. JOSHI : Sir, I beg to move :

"In clause 4, in the new section 2A proposed to be added, add the following new sub-section (5) at the end, namely :—

'(5) Casual vacancies during the term of a Provincial Board shall be filled for the remaining period by election or appointment as the case may be.'

Question proposed.

Mr. S. C. JOSHI : Sir, I thought that it is necessary in the case of a Provincial Board of Primary Education constituted under clause 4 that in case there are casual vacancies by reason of retirement, death, resignation or otherwise there should be provision for filling in the same. In the case of the school board a provision is made in this Act itself and I may refer to clause 5 of this Bill, sub-section (7) of section 3. In fact I have adopted the wording from this very clause. I thought it would be necessary to have a similar provision in the case of Provincial Board of Primary Education. That is the reason why I have moved this amendment and I hope it will be accepted.

The Honourable Mr. B. G. KHER : If that is the intention, Sir, I shall accept it. I was of opinion that it is not necessary, but I shall have no objection to having it.

Amendment put, and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5 (*Amendment of section 3 of Bom. IV of 1923*) :

For section 3 of the said Act, the following shall be substituted, namely :—

"2. *Constitution of School Boards.*—(1) For every local authority there shall be a school board.

(2) The school board shall be constituted as prescribed and shall consist of members not less than twelve and not more than sixteen elected by the local authority. Such members shall not necessarily be members of the local authority :

Provided that if any primary schools have been transferred by municipalities which are not local authorities to the local authority concerned, not more than two of such members shall be elected by the said municipalities in the manner prescribed.

(3) Out of the members elected by the local authority—

(a) two at least shall be members experienced in education ;

(b) one at least shall be a woman ; and

(c) such number not exceeding three as may be prescribed shall be representatives of minorities and backward communities.

(4) The remaining members shall be persons who shall possess the requisite educational qualification.

Explanation.—For the purposes of this section—

(a) minorities and backward communities shall mean such classes and communities as may be prescribed ;

(b) a person shall be deemed to possess the requisite educational qualification, if such person—

(i) has passed the vernacular school final examination held by the Provincial Government;

(ii) has passed the anglo-vernacular third standard; or

(iii) possesses any other equivalent or higher educational qualification which the Provincial Government may prescribe in this behalf.

(5) Except as otherwise provided in this Act, the term of office of the members of a school board shall cease on the expiry of the term of the local authority for which it was constituted:

Provided that the term of office of such members shall not be deemed to expire by reason only of the fact that the local authority is dissolved or superseded;

Provided further that notwithstanding the expiry of the term of office of such members, the said members shall continue in office, until the members of a new school board are elected or appointed, as the case may be.

(6) If the term of office of the members of a school board expires during the period of suspension of a local authority for which it was constituted, a new school board shall from time to time be constituted as provided in sub-section (2), until the local authority is re-established, provided that the members of such school board shall, instead of being elected, be appointed by the Provincial Government. The term of office of the members of a school board so appointed shall be for such period not exceeding three years as the Provincial Government may decide:

Provided that if during such period the local authority is re-established, the term of office of the members of the school board shall expire on the date on which a new school board is elected by the local authority concerned.

(7) Casual vacancies during the term of a school board shall be filled for the remaining period by election or appointment, as the case may be."

Khan Saheb A. A. KHAN (Central Division): Sir, there are two amendments in my name. I would like to know whether I can move them together.

The Honourable the PRESIDENT: It would be better if the honourable member moves them separately.

Khan Saheb A. A. KHAN: Sir, I beg to move:

"In clause 5 sub-clause 3 (c) for the words 'not exceeding three' substitute the words 'not less than three'."

Question proposed.

Khan Saheb A. A. KHAN: Sir, the position is that if the words "not exceeding three" remain, Government may, by rules, provide for only two. They are not bound to provide for more than three, but they could provide for two or even one. I want to fix the number at three.

The Honourable Mr. B. G. KHER: Sir, originally the constitution of the school boards was that there should be a fixed number, namely, 12 for the Board. Then in the Select Committee we found that it may be necessary in some places where there are minorities, in some places there may be a Christian, in other places there may be a Muslim or other minority community and it was necessary to provide some representation for them as such, and ultimately we fixed that not more than 3 should be there altogether, all three being representatives of minorities. Therefore, the maximum number fixed not exceeding three, as may be

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prescribed, shall be there on the ground of representation of minorities. Now to say that it may be more but it may be not less than three is not in consonance with the principle enunciated.

I cannot, therefore, accept the amendment.

Khan Saheb A. A. KHAN: I have nothing to add, Sir.

Amendment put, and negatived.

Khan Saheb A. A. KHAN: Sir, the next amendment that I want to move is:

"In clause 5, sub-clause 4 (a) add at the end the words 'and shall include Mahomedans'."

Question proposed.

Khan Saheb A. A. KHAN: Sir, it is only to see that provision will be made for the election of a Mahomedan that I have given this amendment and I shall be satisfied if an assurance is given by the Honourable the Minister.

The Honourable Mr. B. G. KHER: Sir, it is one of the minorities recognised even in the Act and the preceding clause says "such number not exceeding three shall be representatives of minorities", and is there anybody who says that Muslims are not a minority?

Khan Saheb A. A. KHAN: In view of the assurance—

The Honourable Mr. B. G. KHER: There is no question of an assurance. The Muslims are one of the minorities and there is no question of giving an assurance. Wherever the Mussalmans are to be found in sufficient numbers, according to the rules, one of the three representatives is bound to be there even according to the rules and we need not bring in any further safeguarding clause. It has been there in (3). As the honourable member knows, in (3) it is said:

"(a) two at least shall be members experienced in education;

(b) one at least shall be a woman; and

(c) such number not exceeding three as may be prescribed shall be representatives of minorities and backward communities."

Now, minorities even under the Government of India Act include Muslims. Therefore, no further reservation is necessary for them as the honourable member wishes to provide, and today, as the honourable member knows, under Schedule B minorities have been prescribed according to the localities. The honourable member has to turn to the rules that have been framed. Beyond this there is no need for an assurance, and the honourable member's amendment to add the words in clause 5 is superfluous. What are the minorities? I cannot understand what the word "minority" is for, if it does not include Mahomedans where necessary, and the word is explained as follows:

"For the purposes of this section minorities and backward communities shall mean such classes and communities as may be prescribed by the rules."

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And there is a schedule which prescribes this already. It is on the basis of population. So that, I cannot understand what further communal representation the honourable member wants. Even under the Government of India Act the Mussalmans are a minority.

Khan Saheb A. A. KHAN : I know that the Government of India Act has recognised the Mussalmans as a minority. I wanted the Honourable Minister to recognise the Mussalmans as a minority, and that was the necessity for moving the amendment. Since he has given the assurance that he does recognise the Mussalmans as a minority, I beg leave to withdraw the amendment.

The Honourable Mr. B. G. KHER : There is no question of giving an assurance in this. The honourable member should not be under a wrong impression. It is one of the minorities which has been recognised by the Government of India Act, and the rules have been providing for it even now.

Amendment, by leave, withdrawn.

Prof. SOHRAB R. DAVAR : Sir, I beg to move :

In clause 5, in section 3 (4) Explanation (b) (ii), substitute "who has passed the matriculation examination held by the Bombay University."

Question proposed.

Prof. SOHRAB R. DAVAR : I am moving this amendment, because a very low qualification has been put in. "Has passed the anglo-vernacular third standard"—that is rather too low. It may either be deleted, or something higher may be put in. That is my way of looking at it. If matriculation is not acceptable, we may put in something lower.

The Honourable the PRESIDENT : An amendment for the sixth standard comes next.

Prof. SOHRAB R. DAVAR : Yes. Sir, I have stated why I have moved this amendment, and I hope it will be accepted.

The Honourable Mr. B. G. KHER : Sir, in the Bill as originally drafted the qualification was as the honourable member wishes, namely, the vernacular final examination or the matriculation examination. We found afterwards that the whole House was opposed to this, particularly members of the backward communities. They said it would simply give no chances to them, because there are not—I do not myself agree—sufficiently educated people amongst their communities. In this scheme there is some principle. If the honourable member will see, the first clause is "has passed the vernacular final examination". That means seven years in a primary school. The second is "has passed the anglo-vernacular third standard". That means 4 years in a primary school and further three classes in an anglo-vernacular school. That also means 7 years' education. This was the maximum that people

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agreed to, and that is why it was put in. I need not express any opinion about it. This is the greatest common measure of agreement we could secure, and we had to respect the wishes of the backward classes in this respect.

Mr. S. C. JOSHI: Sir, I want to say only one word. It may be that the person who has passed the anglo-vernacular third standard may have spent seven years at school, four in a vernacular school and 3 in an English school, but certainly it cannot be said that his educational status is exactly identical with that of a person who has passed the vernacular school final examination. The status of the person who has passed the vernacular school final examination is higher. The two cannot have equal status. Therefore, the qualification should be something higher than what is stated in (ii).

Prof. SOHRAB R. DAVAR: In view of what the Prime Minister has said, I ask for leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, I beg to move:

In clause 5, section 3 (4), Explanation (b) (ii), substitute "who has passed the sixth standard in a recognised high school".

Question proposed.

Mr. N. D. DEODHEKAR: Sir, I would have been quite happy had Prof. Davar's amendment been accepted, but as it has been defeated and as it seems that some provision has to be made for those persons who are afraid of the examination *mandap*, I have just brought the standard down, diluted it a bit by lowering it by one standard. Persons who have passed the vernacular final examination have appeared in a serious examination, and that examination is recognised for those persons who enter Government service. But the third standard of an anglo-vernacular school appears simply ridiculous. Education is being imparted for so many years, and it would not really be difficult to find from the minority communities persons who have passed the sixth English standard. If we take a whole district, it has generally got a population of 4 or 5 or 8 lakhs, and in all this population I am sure we can get persons with the necessary qualification which I have put in and I hope that in the interests of education Government will accept it. We know that the reasons that were given for the failure of the school boards up to now were that the persons who came there were not well educated. Here, we have one set of persons who will be coming in by election who know only the vernacular. If we want to provide for another class of persons who know English, as that has become the language of the State, they must be persons who must understand English. For these reasons I have moved my amendment, for those persons who are afraid of the University examination *mandap* and have passed only the sixth English standard.

Dr. G. S. MAHAJANI (Poona *cum* Satara): Sir, in supporting this amendment, I wish the word had been "fourth" instead of "sixth", but as there is no amendment to that effect, I have to support the present one, and my reasons are these. My honourable friend Mr. Joshi has already pressed the view that you cannot at all equate a seven years' course in a vernacular school with four years in a vernacular school plus three years in an English school. But I say fourth English standard, because there are certain middle schools in this Province and the education in the middle school is completed as soon as a boy passes the fourth standard. Whether afterwards he is going to join a high school or not is a different story. The fourth standard does mark the end of some definite stage, and for many purposes I have known boys who have completed the fourth standard are admitted for different courses. Three years—that does seem to me to be an arbitrary limit and, as I said, based on wrong logic of equating 7 years in a vernacular school with 4 years in a primary school and 3 in an English school. I hope the Prime Minister will accept the amendment.

The Honourable Mr. B. G. KHER: Sir, I must express my deep regret that I cannot accept the amendment. We tried every possible thing. Ultimately, we came to the conclusion that the only means whereby a large section of our countrymen could be satisfied would be to accept the qualification of passing the anglo-vernacular third standard. That is why I oppose the amendment. Government's intentions are absolutely clear from the fact that in the beginning we had put in the matriculation examination. We have gone as low as this because we were compelled to do so. Otherwise, I should not have opposed this amendment.

Amendment put, and negatived.

Clause 5 ordered to stand part of the Bill.

Clause 6 (*Insertion of new sections 3A to 3C in Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 7 (*Amendment of section 4 of Bom. IV of 1923*):—

In section 4 of the said Act—

(a) in sub-section (1) omit the words "and subject to the general control of the local authority";

(b) for sub-section (2) the following shall be substituted:—

"(2) The school board shall exercise the powers and perform the duties of the local authority in respect of primary education as may be prescribed in this behalf and if the local authority is a district local board, it shall also exercise the like powers and perform the like duties of the municipalities in the district which are not local authorities and the primary schools in the municipal limits of which are not transferred to any other local authority. The school board shall also enforce the provisions of this Act.";

(c) sub-section (4) shall be re-numbered as sub-section (3); and

(d) sub-section (5) shall be deleted.

Mr. S. C. JOSHI: Sir, I beg to move:

In clause 7, sub-clause (c) shall be deleted, and sub-clause (d) shall be re-lettered as sub-clause (c).

The Honourable Mr. B. G. KHER: I accept the amendment.

Question put, and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clause 8 (*Insertion of a new section 4A in Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 9 (*Insertion of section 5A in Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 10 (*Amendment of section 6 of Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 11 (*Insertion of new sections 8A and 8B in Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 12 (*Amendment of section 9 of Bom. IV of 1923*):—

For section 9 of the said Act, the following shall be substituted, namely:—

"9. (1) For every school board there shall be an Administrative Officer. He shall Administrative Officer. be the chief executive officer of the school board.

(2) The Administrative Officer shall be appointed by and shall be a servant of the Provincial Government. His pay, powers and duties shall be as prescribed."

Mr. N. D. DEODHEKAR: Sir, I move that clause 12 should be deleted.

The Honourable the PRESIDENT: Instead of moving an amendment to delete it, the honourable member can oppose the clause. That would be the proper form.

Mr. N. D. DEODHEKAR: Would it be out of order if I move an amendment that the clause be deleted?

The Honourable the PRESIDENT: It would be out of order in the sense that the whole clause is sought to be deleted. The honourable member should speak against it. The honourable member will have a chance to speak on it and oppose the whole clause, and he can give the reasons which he would have given in support of his amendment for the deletion of the clause.

Mr. N. D. DEODHEKAR: If it is ruled out of order, I have nothing to say.

The Honourable the PRESIDENT: The honourable member can oppose it.

Khan Saheb A. A. KHAN: Sir, I beg to move:

"In clause 12, 9 (1) add at the end the words 'and shall be subject to the control of the school board'."

Question proposed.

Khan Saheb A. A. KHAN: Sir, the reason why I am moving this amendment is that I want that although the administrative officer is a servant of the Government, he should be subject to the control of the school board. We have been told, in reply to the arguments advanced in the course of the discussion on the first reading of the Bill, that the

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school boards will exist, they will be serving a very useful purpose, that all their powers are there and only the power of appointing the administrative officer has been taken away from them. By my amendment the administrative officer will be subject to the control of the school board and I think that it is desirable that it should be so. After all, if educational autonomy has been conferred upon the local bodies, and if it is to remain conferred upon them, then this amendment is desirable and I hope it will be accepted.

Prof. SOHRAB R. DAVAR : Sir, I rise to support this amendment moved by my honourable friend Khan Saheb A. A. Khan. When a school board is vested with so many authorities, as the Honourable the Prime Minister has pointed out, and it is being worked on democratic lines, I see no reason why the executive officer should not be under the control of the school board. If the executive officer remains independent, unfortunately the school board will be entirely in a helpless position. When once a good man has been selected with the consent of the Government, the school board ought to have a certain amount of control over this executive officer. Even in our joint stock companies, though they are frequently badly managed, when all the powers are in the hands of the managing agents, as you know, we generally say that they will work under the general supervision of the Board of Directors. Similar is the case with our Municipal Commissioner. So that, some sort of control ought to be given to the school board.

Mr. DADUBHAI P. DESAI : I oppose the amendment, because if these administrative officers are to be under the control of the school boards, they will have to perform a lot of other duties, according to the whims of members.

Prof. SOHRAB R. DAVAR : Why should they, unless they are mad !

Mr. DADUBHAI P. DESAI : It may happen that the school boards may prevent the administrative officers from exercising the general duties assigned to them under the Act and, after all, as they will be the officers of the school boards generally, they will work as secretaries of the school boards and for all the purposes for which the school board is constituted, the administrative officer will be made to work, so far as the duties of the school board are concerned, in harmony with the school board, or in obedience to the school board, and that is why I say that no statutory condition should be laid down as is contemplated by this amendment.

Mr. N. D. DEODHEKAR : Sir, I rise to support this amendment. It seeks to put the administrative officer under the control of the school board, and it is in the fitness of things that it should be so, because he has to serve primarily the school board and Government has kept sufficient control by saying that these appointments will be approved by Government whenever they are made.

[Mr. N. D. Deodhekar]

My chief reason for putting the administrative officer under the control of the school board is that the school boards that will be selected or elected after the present time will not be bad as before and we should not use the same stick for beating them with which we used to beat the old school boards. The district local boards that are going to elect the school boards will now be elected by the same voters who have elected members on Government benches and others as well, i.e., the members of the Assembly. The franchise is the same and the voters, in selecting the members to the district local boards, will see that they possess qualifications higher than the average qualifications, and these persons who possess the higher qualifications in their turn will elect members to the school boards, so that the members of the school boards henceforth will have to pass this double test. In the first place, there will be the members of the district local board elected by the voters who elect our Legislative Assembly and then those elected or selected members in their turn will elect the members of the school board. Therefore, there is no necessity of removing the control of the school boards over the administrative officers. For these reasons, Sir, I support this amendment.

The Honourable Mr. B. G. KHER : Sir, I oppose the amendment. It would be rendering practically the effect of the whole amending Act nugatory. It is because the school boards are interfering too much with the day to day administration that clause 12 is enacted and now the honourable members want to frustrate it by saying that the administrative officer shall be appointed by Government and shall be a servant of the Government, and his pay, powers and duties shall be as prescribed, but he shall be subject to the control of the school board. He must be subject to the control of the Minister and of Government; otherwise today he is subject to the control of the school board and we see what the result is. The result is that there is so much interference today and no good work, except satisfying the whims of the members of the school board, is done by the administrative officer.

Then the analogy that because in the Bombay Municipality the Commissioner is liable to be removed by the Corporation, therefore, the administrative officer of the School Board must be subject to the control of the school board does not apply here. Here the administrative officer is to be paid by Government, he is to be a servant of the Government; his powers and duties are to be prescribed by Government; and, if he is to work under the discretion and control of the school board, the very evil which is sought to be remedied will be left untouched. That is why I regret that I shall not be able to accept this amendment.

Khan Saheb A. A. KHAN : By way of reply I have to point out that there are administrative officers, and administrative officers under this Bill. There is an administrative officer for local bodies spending less than one lakh of rupees and there is an administrative officer for local bodies spending more than Rs. 1 lakh. In the case of those bodies who can afford to spend more than Rs. 1 lakh, they are entitled to appoint their own administrative officers.

The Honourable Mr. B. G. KHER : No, no.

Khan Saheb A. A. KHAN : Sir, clause 24 is headed "Delegation of power to certain local authorities to appoint Administrative Officers". It is stated in that clause "the Provincial Government may,..... delegate to a local authority which is a municipality constituted under the Bombay Municipal Boroughs Act, 1925, and the annual expenditure of which on primary education is not less than Rs.1,00,000, power to appoint an Administrative Officer". So, after they once appoint him with the approval of the Government, they are entitled to reduce, to remove him and to suspend by a two-thirds majority, while in the case of municipalities who are not so fortunate as to be able to spend Rs. 1 lakh, even ordinary control is to be denied to the school boards with regard to the administrative officer, who will be appointed by Government. The result will be that the school board will be dragging on in one direction and the administrative officer will be dragging on in the other and it will lead to chaos. After all, there ought to be some kind of control with the school boards. If this power of control is not given, where is the sense in keeping these school boards at all? Why not get rid of them altogether and have all the staff of your own?

The Honourable Mr. B. G. KHER : Sir, the powers and duties of both, the administrative officer and the school board, will be defined. There is no question, therefore, of chaos resulting, and the honourable member Khan Saheb Khan was not right in saying that the municipalities which spend more than Rs. 1 lakh will be *entitled* to appoint their administrative officer. The word used in clause 24 is "may". There are only five borough municipalities which spend over a lakh of rupees and if in the case of these five, as is in the case of the Bombay Municipality, for example, where, because of the higher level of the class of people who are in charge as also the kind of administration which you find in large cities, Government thinks that there is no mal-administration and other evils, to remedy which this Bill had to be brought, Government may delegate the power of appointing administrative officers. There are only five borough municipalities which spend over a lakh of rupees on education in the whole Province. So, it is open to Government to delegate their power of appointing the administrative officer to them. There are several people who have said "Please don't delegate any power at all". These requisitions are coming every day and they say "Please don't delegate this power, otherwise we will be ruined". Resolutions are being passed and meetings are being held in which requests are being made to Government not to delegate this power. Therefore, Government have kept the right to themselves to delegate this power of appointment of administrative officer to local authorities, who are administering their affairs satisfactorily. Government are not out to rob local bodies of their powers. It is because Government are helpless and there is no other remedy that such legislation is brought. In the case of the municipalities who administer their affairs properly, Government have reserved the power of appointment to be delegated to these boroughs. In the case of others, it would be frustrating the intention of the Act if they were given the

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power to meddle with the day to day administration which should be carried on by the administrative officer. It is because the present school boards meddle too much with the day to day administration that it has become necessary to bring this Bill. And now if you say, let them be appointed by Government and yet let them be under the control of the school boards, you are really negating the intention of this clause.

Khan Saheb A. A. KHAN : Sir, I am not still satisfied.

The Honourable Mr. B. G. KHER : The honourable member is not entitled to a reply now.

Question put.

The Honourable the PRESIDENT : Honourable members will please say Ayes or Noes loudly. From the voices of Ayes or Noes, both of which I could not hear clearly, it is not possible for me to decide either way. I therefore put the question again and the honourable members will please say, either Ayes or Noes, sufficiently loudly.

Question put, and negatived.

Clause 12 ordered to stand part of the Bill.

Clause 13 (*Insertion of new section 9A in Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 14 (*Amendment of section 10 of Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 15 (*Amendment of sections 10 and 11 of Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 16 (*Amendment of section 14 of Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 17 (*Amendment of section 16 of Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 18 (*Amendment of section 19 of Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 19 (*Amendment of section 22 of Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 20 (*Amendment of section 26 of Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 21 (*Insertion of new sections 16A, 16B and 16C in Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 22 (*Insertion of new sections 26A, 26B, 26C, 26D, 26E in Bom. IV of 1923*) ordered to stand part of the Bill.

Clause 23 (*Amendment of section 27 of Bom. IV of 1923*) :—

In section 27 of the said Act—

(1) In sub-section (1)—

(a) at the beginning of clause (a)—

(i) the words "the constitution of the school board", shall be inserted;

(ii) after the words "school boards", the words "chairman and vice-chairman of school boards" shall be inserted;

(iii) the words "School Board" shall be deleted;

(b) in clause (b) after the words "for the" the word "administrative" shall be inserted;

(c) after clause (b) the following clauses shall be inserted, namely:—

"(e) the manner of election of the chairman, vice-chairman and members of the school board;

(d) the rates and manner of payment of travelling allowances to members of the school board under section 5A;

(e) the qualifications, pay, conditions of service, powers and duties of Administrative and inspecting officers;

(f) the administration, maintenance and use of primary education fund;

(g) the delegation of any power to any subordinate authority;"

(d) clause (c) shall be re-lettered (h).

(2) In clause (d) of sub-section (3) for the words "inspecting and supervising" the words "supervising clerical and inferior" shall be substituted.

Mr. S. C. JOSHI: Sir, I beg to move:

In clause 23, add the following new sub-clause at the end:

(3) In section 27 of the said Act, for sub-section 2 the following shall be substituted, viz. :—

"2. (a) Rules so made shall be published in the *Official Gazette* and shall have effect from such date as may be specified by Government:

Provided, however, that a period of at least three months shall be allowed to run from the date on which the rules were published to the date on which they came into effect.

(b) The Rules made shall be laid on the table of the Provincial Legislative Council and Assembly for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution of the said Council and Assembly. If any rule is so modified, Government shall republish the rule accordingly or rescind the rule."

Question proposed.

Mr. S. C. JOSHI: Sir, I do not want to take up the time of the House

6 p.m. in repeating the arguments which I have already advanced on a previous occasion on the same point. But in addition to those arguments I have got one more reason. The special reason for moving this amendment to this Bill is that this is an important Act and a small Act, and most of the details are to be settled by rules to be framed by Government and as such these important matters ought to be subject to the vote of the legislature if it is thought necessary to do so. Of course, they need not be placed before the Council table with a view to obtain their sanction. The rules as such will be given effect to unless the legislature thinks it necessary to exercise its right of moving any amendments or modifications. Many things under this Act are to be prescribed by rules and they are matters of great importance, and as such the legislature ought to be given the right of expressing its views if it so desire. This is the additional reason why I have moved this amendment.

With these words, I commend this amendment to the House.

The Honourable Mr. B. G. KHER: As the honourable member stated, this subject was discussed both in this House and in the lower House for a considerable length of time. Some of the important rules which were contained in the present rules have been embodied in this

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Act now. Most of these sections really contain the rules which have now been transferred to the sections of the Act, so that on many of the important rules the House has already expressed its views. However, there is a practical difficulty in the way of accepting this amendment. If every rule which is framed—after all, the rules provide for matters of administrative detail—has got to be placed on the table of the Council and discussed and amended, it will naturally hold up the administration and cause great inconvenience. It is, therefore, very, very difficult to accept this amendment. If it is found that any rule is objectionable or it causes hardship, the Minister will be pleased to accept any amendments which experience shows or which any argument shows to be necessary; but otherwise honourable members will have to rely on the good intentions of the Government. Even if they do not want to rely on the good intentions of the Government,—as the honourable member Dr. Mahajani rightly said, after all, what is passed is the Act and the assurances and good intentions of Government do not find place in it,—even then it is open to the House to question the propriety of any rules either by way of bringing censure motions or putting questions. I do not think, therefore, it would be practicable to accept this amendment and to place all the rules on the table of the Council. It would mean wasting so much time. We know that even on this Bill we had to spend 15 days. If, therefore, 150 rules dealing with details like where a School Board meeting shall be held and so on, are to be placed on the Council table and discussed, we shall have to sit at least for six months for one legislation and if we have to bring to the Council all the rules under each Act, then we shall be able to do nothing except passing rules which Government must frame and must change from time to time. Whenever these rules are to be changed they have got to be published, and objections have to be invited, so that now in these days when democratic Government has advanced so far, I do not think the fears which have actuated the putting up of the amendment which is now before the House are justified.

Dr. G. S. MAHAJANI: After the rules are framed, if any omissions are pointed out, will they be considered?

The Honourable Mr. B. G. KHER: Most certainly.

Mr. S. C. JOSHI: I do not want to reply to the points to which I have already replied, but the Honourable the Prime Minister seems to be under the impression that my amendment would require all the rules to be placed on the Council table and that the sanction of the legislature would be necessary for the purpose of giving effect to the rules. That is not the intention of my amendment. By my amendment the rules are merely to be placed on the Council table and if any member is desirous of moving any amendment, it should be open to him to do so. It is not my intention that each and every rule should have the sanction of the legislature.

Amendment put, and negatived.

Clause 23 ordered to stand part of the Bill.

Clause 24 (*Delegation of powers to certain local authorities to appoint Administrative Officers*):

After section 27 of the said Act, the following new section shall be inserted, namely:—

"27A. (1) Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the *Official Gazette*, delegate to a local authority which is a municipality constituted under the Bombay Municipal Boroughs Act, 1925, and the annual expenditure of which on primary education is not less than Rs. 1,00,000, power to appoint an Administrative Officer. The officer so appointed shall be the servant of the local authority concerned.

(2) The appointment of such Administrative Officer shall be made, after inviting and considering the suggestions, if any, of the school board and with the previous approval of the Provincial Government. No such officer shall, save with the previous sanction of the Provincial Government, be removable from office, reduced or suspended except by votes of at least two-thirds of the whole number of councillors of the local authority.

(3) The qualifications, pay and conditions of service of such Administrative Officer shall be regulated by regulations made by the local authority with the previous sanction of the Provincial Government.

(4) Such Administrative Officers shall, subject to the general or special orders of the Provincial Government, exercise all the powers and perform all the duties which may be exercised and performed by the Administrative Officers appointed under section 9."

The Honourable the PRESIDENT: There are three amendments to this clause, but I think the amendment which was received last should be taken up first. I do not think the House has got the amendment which has been just delivered and I will read the amendment to the House. It reads as follows:

In clause 24, 27A (1), in line 5, after the words "1925" add the words "or district local boards acting as local authorities".

This amendment stands in the name of the honourable member Mr. Deodhekar and he will move it now.

Mr. N. D. DEODHEKAR (Thana *cum* Nasik *cum* Ahmednagar):
Sir, I beg to move:

In clause 24, 27A (1), in line 5, after the words "1925" add the words "or district local boards acting as local authorities."

Question proposed.

Mr. N. D. DEODHEKAR: Sir, the amendment that I have moved seeks to include those district local boards who are local authorities and who are spending rupees one lakh and over for the primary education. We have seen that those municipalities which are spending rupees one lakh and over for primary education can come under the special privileges of the Act and Government have got powers by which it may by notification give powers of appointment of administrative officers, etc. Sir, the amendment brings in line those district local boards which are prepared to spend Rs. 1 lakh and over for primary education. There

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should be no step-motherly treatment. They should be put on the same footing as the municipalities. The power of granting powers to these bodies rests with Government because the section says "Notwithstanding anything contained in this Act the Provincial Government may delegate"—mark the word "may". It is left to the discretion of Government. Sir, just now we were assured by the Honourable the Prime Minister of his being responsive. All along, the treatment of the amendments whether moved in this House or in the Lower House by the opposition does not make us accept that statement. But still we will take him at his word and I shall request him to be responsive and accept this amendment. I shall quote here one verse just to compare his response thus far to the action of an oilman. The verse is :

स्नेहास्तवचि तिञ्जातं यंत्रौ
 तूं तैलिका रगडतोस
 द्वेष जरी तव चित्तौ शासन रे
 काय त्यांस करितोस. ॥

It means : "Oh, oilman, if for the sake of friendship, you crush the sesame in your oil mill, what punishment would you have given it if you hated it ?" We shudder to think about it.

As this is the last amendment, I hope the Honourable Minister will be responsive and extend the same privilege to the district local boards. We hope that at least at the close of this Bill we shall get that response.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira) : Sir, I oppose the amendment. It is the funniest amendment which I find. By a simple amendment the honourable member wants to throw overboard the whole Bill and the labours of the Minister, and the labours of both the Houses are attempted to be made quite nugatory. The thing is that the Honourable the Prime Minister has found some evils in the local authorities and district local boards, but in the borough municipalities these evils have been found to be absent. The Honourable Minister has power to delegate the powers where he finds that they are efficiently working. I had thought that a small district like the Panch Mahals would be excluded, but I find that not a single district would be excluded by the amendment ; so where was the necessity of this Act ?

The Honourable Mr. B. G. KHER : Sir, I oppose the amendment. With the exception of the Suburban District, there is no district local board which spends less than a lakh of rupees and we have made this distinction in favour of the cities on the grounds which I have already made clear in my previous remarks, and those do not apply to the district local boards.

Amendment put, and negatived.

Mr. S. C. JOSHI : Sir, I beg to move :

"In clause 24, section 27A, for the figures 1,00,000, substitute 50,000."

Question proposed.

Mr. S. C. JOSHI : Sir, the present section 27A gives a discretion to the Government to exempt some of the local authorities which are municipalities constituted under the Bombay Municipal Boroughs Act, 1925, from the provision of this Act, provided the municipality spends on primary education annually not less than a lakh of rupees. Now the number of such municipalities is stated to be only 5. Thus, the discretion is limited to a very small number of municipalities. There may be other municipalities also which may be more competent perhaps than the municipalities which are spending a lakh of rupees and the Government may not be entitled to exercise the discretion in favour of such municipalities. It is necessary that the scope of exercising the discretion should be expanded to some extent. In any case, I know that whatever limit one puts, that limit will be arbitrary, whether it is one lakh or 50,000. If it is to be 50,000, somebody would say why not reduce it to 25,000 ! We do feel that the number of municipalities in favour of which the discretion is now vested in this section should be sufficiently large and by fixing the figure at 50,000, it will be a sufficiently large number. It is, after all, open to the Government to exercise the discretion or not according to the working of the municipalities and the efficiency with which the school board there is carrying on its own functions ; and, therefore, I think it will not be unfair or unreasonable to ask to reduce the figure from one lakh to 50,000.

With these words, I move the amendment.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira) : Sir, I oppose the amendment. As a matter of fact, all the borough municipalities would come under this. So far as I can see, all the borough municipalities spend in the neighbourhood of 50,000 or perhaps over 50,000. The municipalities which spend 50,000 or over 50,000 are not, strictly speaking, cities. They are over-grown villages and all the countryside methods and countryside intrigues are to be found even there. It is only in cities like Ahmedabad and other places that the school boards are exempt from the weaknesses and blunders about which the Honourable the Minister has just said and that is the reason why I oppose this amendment.

The Honourable Mr. B. G. KHER : I do not wish to say anything.

Amendment put, and negatived.

Prof. SOHRAB R. DAVAR (Bombay City *cum* Bombay, Suburban District) : Sir, I beg to move :

"In clause 24 section 27A (2) after the words 'no such officer shall' the words 'save with the previous sanction of the Provincial Government' be deleted."

Question proposed.

Prof. SOHRAB R. DAVAR: Sir, the object of my putting this amendment is this. The effect of the words will be that the Administrative Officer who will be appointed in the case of the Bombay Municipal Boroughs Act with the sanction of the Provincial Government and in the case of those municipal boroughs to whom they have delegated the authority to appoint these Administrative Officers, may be removed without Government's permission by two-thirds of the majority of the members. My object in moving this amendment is this, that, as the Honourable the Prime Minister has said, there are only five such city municipal bodies and in the case of those five he has already received some requests not to delegate this authority; if he were to delegate authority at all, it will be to a really well-behaved good-boy type of a city municipality which spends more than a hundred thousand rupees on education. Then, in that case, my idea was and is that, if my amendment is acceptable, it would bring them in line with our section 54 of the Bombay Municipal Act. In that Act our Municipal Commissioner is appointed entirely by the Government. We have no voice in that, but we are given the power by two-thirds majority to remove him. In fact, we have never exercised that power as far as our history goes, but it is a very useful power because, by the fact that it is there, there is a certain restraint on the officer concerned that he behaves with us with a certain amount of restraint and tolerance, otherwise he would perhaps be a regular autocrat and give us a lot of petty offences against which we could not move and, even if we wrote, the Government would not understand our grievances. This is a first-class power that lies in the hands of the Bombay Municipal Corporation. The Bombay Municipal Corporation's constitution was drafted in 1888 when the City was in its infancy. These powers have come to us not by modification but by the original Act. This constitution has had the strong hand of Sir Pherozeshah Mehta on it, so much so that even in these more advanced times, the Municipal Corporation has stood the test of time and our constitution is acknowledged to be better than that of Calcutta or Madras and we are told that we are very fortunate in possessing this excellent Act, passed under the supervision of a popular chairman, the most popular leader of his time, Sir Pherozeshah Mehta. So, that is the object with which I am moving this amendment. Do not keep the administrative officer entirely under your control. He will take orders from you, no doubt. You will appoint him, but in the case of these city municipal boroughs, which you yourself select as the best boy out of those 5 that exist, that are very limited in number, do give them this power, which they may never exercise. But it will be a very healthy check; I submit with great respect it will be a very healthy check on the administrative officer's excesses. That is the idea with which I am moving this amendment. Give them another chance. By experience they will improve. We were always told that India was not fit for self-government, that our electorate was not sufficiently intelligent or educated. We have always answered back and said "Give them a chance to get educated, and if you give them self-government, if you

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give them responsibility, they will in course of time by experience get educated. They will no doubt make mistakes. But we will rather suffer for those mistakes than remain permanently under autocratic sway." That has been our reply always when we were confronted with the argument that we were unfit for self-government. Here, the city municipal borough is going to be selected by the Government itself as the most desirable and worthy body to be entrusted with these powers. Then I submit there should be no objection, and the Prime Minister I hope will consider this.

Mr. D. P. DESAI (Ahmedabad *cum* Kaira): Sir, I oppose this amendment. The words proposed to be omitted are "save with the previous sanction of the Provincial Government". If the local authority wants to dismiss that man by a bare majority, they must have the previous sanction of the Government, but by two-thirds majority they can dismiss him outright. So, the same procedure as is followed in the Bombay Municipal Corporation is followed in this. The same powers are given as are given to the Bombay Municipal Corporation.

Prof. SOHRAB R. DAVAR: Government's sanction is required for removal. It is not so in the case of the Bombay Municipality.

Mr. D. P. DESAI: By two-thirds majority they can remove him outright. By a bare majority the local authority can remove him with the previous sanction of the Government.

Prof. SOHRAB R. DAVAR: But if the Minister accepts it, I am prepared to amend it.

The Honourable Mr. B. G. KHER: Sir, the honourable member is under a misapprehension. First of all, sub-section (2) says:

"The appointment of such Administrative Officer shall be made, after inviting and considering the suggestions, if any——"

That deals with the appointment. With a two-thirds majority of the votes the local authority can remove him, and anything can be done to him. But if by a smaller majority than two-thirds you want to do it, you can do so provided you take the previous sanction of the Provincial Government. The condition in the Bombay Act is more stringent. So, the honourable member is pleading unnecessarily, for I may tell him that this is merely a copy of sub-section (2) of the old section. We have, at the request of these very municipalities to whom this power is to be delegated, repeated the provisions of the present Act. That is all. In fact, the honourable member's amendment will make it less favourable to them. So I hope he will withdraw the amendment, as it is unnecessary.

Prof. SOHRAB R. DAVAR: Sir, I ask for leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Clause 24 ordered to stand part of the Bill.

Clause 25 (*Transitory provision*) ordered to stand part of the Bill.

The preamble ordered to stand part of the Bill.

The Honourable Mr. B. G. KHER: Sir, I move that Bill No. XV of 1938 (a Bill to amend the Bombay Primary Education Act, 1923) be read a third time and passed as amended.

Question proposed.

Mr. N. D. DEODHEKAR: Sir, for the past two hours or so we have been moving amendments and we have seen the members opposite standing up and saying "We stand to oppose it". Now, for the last time I take this opportunity of standing up and saying that I oppose the third reading of this Bill. My reasons are plain. I have repeatedly, on two or three amendments on which I spoke and when I spoke at the first reading of the Bill, drawn the attention of the Honourable the Premier and the Government benches to the fact that you are, by distrusting the very voters who are going to elect the district local board members, who will in turn go on the school board, insulting those voters who elected you and you are not taking note of the fact in hurriedly passing this Bill. I cannot accept this Bill as it is now before us, and I think it is my duty to oppose it in the form in which it is presented to us.

The Honourable Mr. B. G. KHER: Sir, the honourable member on the third reading is entitled to speak only on the Bill as the amendments affected it after the second reading. His comments were entirely such as were probably appropriate on the first reading, but not permissible on the third reading. He has, however, already made them, and I have nothing to say.

Question put, and agreed to.

The Honourable the PRESIDENT: The Bill is read a third time and passed.

BUSINESS OF THE HOUSE.

The Honourable Mr. B. G. KHER: Sir, I am expecting that the City of Bombay Municipal Act Amendment Bill will be passed in the Assembly today. They propose to sit, I believe, till the Bill is passed, in which case I would request that this House take it up tomorrow, so that the Assembly need not sit beyond Saturday, because after that Bill goes through this House it will have to go again before the Assembly. We have been sitting now right from January onwards. Honourable members are anxious that the sessions both of this House and of the lower House should come to a close as early as possible. I would, therefore, request that this House should sit, if necessary, at a later hour

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tomorrow, say 3 or 3-30, so that it may have time to look into the amendments in the Municipal Bill as it will emerge from the lower House. The Bill could be finished here tomorrow. The day after there will be one or two resolutions which might be taken, so that even this House may be prorogued on Saturday. We need not carry the session into the next week. I think that would be a convenient programme to agree to.

Prof. SOHRAB R. DAVAR : Sir, I want to know when this Bill is going to be handed to us, because we will have to consider it carefully and we will have to send in amendments.

The Honourable the PRESIDENT : The Bill is not yet passed by the Assembly. For the present the Bill as presented to the Assembly is before the honourable members. As to the amendments, they will be given to them as early as possible tomorrow morning. I am expecting them to be ready by 10 or 10-30 in the morning, in any case not later than 11 o'clock, and they will be in the hands of honourable members before 11 o'clock. Then honourable members may take their own time on the amendments and, if they so like, we can meet at 2 or 2-30.

Prof. SOHRAB R. DAVAR : Sir, are we to come here at 10-30 or 11 to take the amendments ? I do not see how that can be possible. Then, Sir, we have got to consider those amendments and there are bound to be so many points to be considered. The Bill is not an easy Bill and normally we must get at least one day, if not three according to the rules. But here, Sir, we are not given even three hours. I think it is rather too hard.

Mr. N. D. DEODHEKAR : Sir, I would request my honourable friends to come and sit in the committee room at about 12-30 noon and we can have about 2 or 3 hours when we can discuss all the amendments. And then we might assemble at 4 o'clock and go on with the Bill. I do not think we shall require more than 3 or 4 hours to finish the Bill, because only those persons who are interested in the Bombay Municipal Corporation will take a prominent part.

Prof. SOHRAB R. DAVAR : But we have to take our lunch at 1 p.m. and how can we come and sit here from 12 noon ?

The Honourable Mr. B. G. KHER : Sir, copies of the Bill could be put in the pigeon-holes before 11 o'clock in the morning and, if it suits honourable members, it would be possible for them to informally discuss the principal portions of the Bill and minor things may be discussed in the House. But points which are of importance may be discussed beforehand, and if we sit, say, at about 3 o'clock or 3-30, it would meet the convenience of all members. If we insist on a day in between, what will happen is we will have to meet on Saturday for this Bill and the session will be unnecessarily prolonged, not only here but in the lower House. The honourable members of the Assembly who would, if

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possible, like to finish the whole sessions and leave Bombay on Saturday will have to stay over for the next week.

The Honourable the PRESIDENT: I could not follow the earlier portion of the Honourable the Prime Minister's statement.

The Honourable Mr. B. G. KHER: What I am suggesting is that the Bill passed by the lower House should be put in the pigeon-holes today.

The Honourable the PRESIDENT: The Bill is there and we will try to put the amendments as passed by the Assembly in the pigeon-holes tonight by 9'clock. I fully realise the difficulties of the honourable members, and if one or two members desire that amendments should be sent to their places of residence, I will try and see that the amendments are sent to them tonight. The copies of the amendments for the remaining members will be put in the pigeon-holes. So, if the honourable members can give me the amendments that they propose to move by about 1 or 1-30 p.m. tomorrow, then the Council can begin work, say, by about 2-30 or 3. I do not wish that we should begin after 3 because it will be getting too late in the evening. But if this suggestion meets with the facility and convenience of the honourable members then, as I said, the amendments will be put in the pigeon-holes of all other members except of those who desire that the amendments should be sent to them tonight. If one or two members desire that the amendments should be sent to them, arrangements will be made to do so. I wish to meet, as far as possible, the convenience of the honourable members.

Further, I have received notice of three resolutions. I propose to put all of them on the agenda for tomorrow. If there is time and if it is convenient, the Honourable Minister in charge may move one or two resolutions tomorrow, so that my idea is that time may be saved for Saturday. I have got information that at least one Honourable Minister, the Honourable Mr. Nurie, wishes that his resolution may be taken up on Saturday, but it is possible that another Minister may be free. It will not be a question of sitting very late to pass these resolutions. Supposing the amendments are disposed of and there is time, and if it meets the convenience of the members, the resolutions will be moved tomorrow; otherwise, the resolutions will be taken up on Saturday. It is on that understanding that the resolutions will be put on tomorrow's agenda.

Then, as regards the amendments which are to be given, I think if the honourable members can give me the amendments by 1-30 or 2 p.m. tomorrow, I shall have time to go into them.

The Honourable Mr. B. G. KHER: As regards the resolutions, if the honourable members do not wish to discuss them, they need not do so. Under the law, the position is that, if they do not care, they need not discuss the resolutions in this House.

Prof. SOHRAB R. DAVAR : What are these resolutions ?

The Honourable Mr. B. G. KHIER : Supplementary demands—not exactly supplementary demands but indications of what steps are being undertaken about certain matters. They have to be placed before the House, but, as I stated, they can be disposed of without discussion. I am submitting that, if the Bill takes a sufficiently long time, then the honourable members need not trouble themselves about the resolutions.

The Honourable the PRESIDENT : Then, as regards amendments, will 2 o'clock suit ?

Honourable MEMBERS : Yes.

The House then adjourned till 3 p.m. on Friday, the 6th May 1938.

Vol. 3—Part 16:

Friday, the 6th May 1938.

The House re-assembled at the Council Hall, Bombay, on Friday, the 6th May 1938, at 3 p.m., the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 CURRIMBHOY EBRAHIM, Sir
 DAVAR, Professor SOHRAD R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, Khan Saheb A. A.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MARWADI, Mr. P. S.
 MEHTA, Mr. CHINUBHAI L.
 MEHTA, Mrs. HANSA JIVRAJ
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MOHOMAD
 VIRKAR, Mr. M. B.

The following Honourable Ministers were also present :

The Honourable Mr. MORARJI R. DESAI
 The Honourable Mr. L. M. PATIL

STARRED QUESTIONS AND ANSWERS.

REMUNERATION FOR COLLECTION OF LOCAL FUND CESS.

*Dr. G. S. MAHAJANI (Poona cum Satara): Will the Honourable the Minister for Revenue be pleased to state—

(a) whether it is a fact that in the case of some inam villages in which survey settlement was introduced before 9th May 1892, the terms of settlement did not include a term authorising Government to deduct the collection charges of local fund cess;

(b) whether it is a fact that in the case of villages settled after the said date Government have introduced a change in this respect by inserting a special clause to the above effect;

(c) whether it is a fact that in the case of villages referred to in clause (a) above the charges for the collection of local fund cess are recovered from the inamdars without their consent?

The Honourable Mr. MORARJI R. DESAI: (a) Yes.

(b) Yes.

(c) The liability of paying the local fund cess due in their villages lies on the inamdars under the Local Boards Act. If inamdars employ the agency of village officers to collect the cess from their tenants they have to pay for the services. The question of their consent does not arise.

Dr. G. S. MAHAJANI: I wish to put one supplementary question. According to section 75 of the Local Boards Act, the net proceeds of any residue, etc., are to be put in the local fund cess, but after deducting the expenses of assessment and collection. The answer to (c) is "The liability of paying the local fund cess due in their villages lies on the inamdars under the Local Boards Act". Will the Honourable Minister be pleased to go into the fact which I am asserting that in this case the cost of collection is being deducted from the inamdar's revenues and also from the local boards? So Government is making, I suggest, a profit. Really speaking, the cost of collection should be deducted from the collected fund and whatever remains added to the local fund, because that is the meaning of this section 75.

The Honourable Mr. MORARJI R. DESAI: I am afraid the honourable member is under some misconception. The cost of collection has to be deducted from the collected fund, but that is between Government and the local bodies. The inamdars are bound to pay local fund cess themselves to Government and Government have to collect it from the inamdars themselves. So, there is no cost of collection. If the inamdar has to collect it from a thousand persons, it is his business. It is like income tax. Income tax is collected from one man only. That man may be collecting it from several persons. With that Government is not concerned and that is why the cost of collection cannot be deducted from the dues which are recovered from the inamdars.

Dr. G. S. MAHAJANI: Am I correct in interpreting the answer that it is not deducted from the local boards?

The Honourable Mr. MORARJI R. DESAI: Certainly, it is not deducted from the local boards. I may assure the honourable member that Government is not making a profit at the cost of the inamdars.

BILL No. XVII OF 1938 (AN ACT TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888).

The Honourable Mr. L. M. PATIL: Sir, I beg to introduce Bill No. XVII* of 1938 (A Bill to amend the City of Bombay Municipal Act, 1888).

The Honourable the PRESIDENT: Bill No. XVII of 1938 is introduced.

The Honourable Mr. L. M. PATIL: Sir, I beg to move that Bill No. XVII of 1938, A Bill to amend the City of Bombay Municipal Act, 1888, be read a first time.

Question proposed.

The Honourable Mr. L. M. PATIL: Sir, this Bill contemplates six important changes. Firstly, the nominations are abolished. The total number of members of the Corporation is increased from 112 to 117. The wards are sub-divided and seats are re-distributed. The number of seats to be elected at ward elections is increased from 86 to 106. The salaries of the four statutory officers have been reduced and the life of the Bombay Corporation is increased from 3 to 4 years and it is intended to introduce adult franchise for the election of 1942. It is not necessary to deal with the questions of abolition of nominations, the increase in the total number of members of the Corporation, the increase in the elective seats from 86 to 106, the reduction in salaries of the four officers and the increase in the life of the Corporation. The wards are sub-divided because the present wards are so unwieldy that it is very inconvenient for the voters to cast their votes as well as for the Corporation to manage the elections efficiently. In Madras and in Calcutta the wards are comparatively small. If the wards are small, then the Corporation can properly enlist the names of the voters and manage the election in an efficient manner. So also the voters will be able to vote properly. The principle of adult franchise has been accepted by almost all the parties and groups, and on this question also I do not wish to offer any remarks.

With these remarks, I commend this Bill to this honourable House.

* Appendix 12.

- Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, the Bill as introduced by the Honourable Mr. Patil—

The Honourable the PRESIDENT: The honourable member has given an amendment and it is to be decided whether it is an amendment of principle or an amendment of detail. But I do not know in what clause he wants to put in that amendment. It is not stated clearly to which particular clause it refers.

Professor SOHRAB R. DAVAR: I will put it in Clause 8.

The Honourable the PRESIDENT: Then the honourable member must say that his amendment may be substituted for sub-clause (2).

Professor SOHRAB R. DAVAR: That would be proper.

The Honourable the PRESIDENT: The question would still remain as to whether it is an amendment of principle or of detail. The point which strikes me is this that the amendment, as it is, only means this that the principle is accepted but this principle is to be put into effect by the Corporation after it has passed the requisite resolution to carry out the principle into effect. It is not a denial of the principle, but it is about the time of the enforcement of that principle. So, to my mind, it will not be strictly an amendment of principle. However, I have no objection to the amendment being moved as an amendment of principle. If, however, the honourable member thinks that the proper time to move the amendment would be when we consider clause 8, which deals with adult franchise and the people who should be put on the roll, then the amendment can be discussed then. It is rather on the border line and I would leave it to the honourable member to decide whether he should move the amendment as an amendment of principle or as an amendment of detail.

Professor SOHRAB R. DAVAR: Sir, I would prefer to treat it as an amendment of principle.

The Honourable the PRESIDENT: Then the honourable member can move the amendment now.

Professor SOHRAB R. DAVAR: Sir, I beg to move:

"(1) If on or after the first day of April 1939 the Corporation by a majority of councillors present at a duly convened meeting for the purpose decides by a resolution that the system of Adult Franchise be adopted for the purpose of general election, the Provincial Government may by notification in the *Official Gazette* sanction the adoption of same after the first day of January 1942 and for all subsequent elections."

Question proposed.

Professor SOHRAB R. DAVAR: Sir, to begin with, I may state that I am a believer as an idealist in adult franchise and I have always, as a nationalist, thought that the ultimate goal of every democracy must be to introduce or to reach that stage when adult franchise can come in.

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Therefore, as far as the principle of adult franchise is concerned, I am in entire agreement with my honourable friends opposite that adult franchise should be our ideal, but I am a believer in evolution and not in revolution. I want, as a nationalist and a democrat, to go slowly and with gradations and after experimentation towards adult franchise. The Government evidently was of the same opinion some time ago and presented a Bill to the Corporation for opinion in which they had provided a similar safeguard such as the one which my proposition on principle embraces. I have, Sir, some experience in connection with our municipal elections. This is the seventh year I am running on the Corporation, so I have gone through three elections, experienced personally under 10-rupee franchise as we call it and I am not satisfied; if you ask me, honestly and frankly my opinion is that even under the 10-rupee franchise, the electorate is not casting its votes satisfactorily and is not working as a perfect democratic institution should work. My experience has been, Sir, that majority of voters do not know even the candidate for whom they are brought to vote. I have ascertained that personally in my very first election. Standing near my booth I saw crowds of *naryunies* or dockworkers as well as other people from the chawls brought in. They came in omnibuses, were led by a leader who was called their "dada" and they went in and voted. I knew for whom they were voting. I was surprised. My curiosity took the better of me and so I went very politely to one of the crowds which came like school-children led by the school-master. I hailed to one of these men walking towards the booth of a fellow candidate and asked him: Whom are you voting for? The workman gave me the name of the symbol. I do not want to mention that symbol, perhaps it might reflect upon somebody, but when he told me that symbol I asked him in polite language: "Do you know the Saheb or his name, who has got the symbol?" He said: "No, I do not know." Then I asked: "Then why have you come to vote?" He said: "Because our Dada has brought me and if you want his name he will give it." Meanwhile the group which was moving had stopped as I was talking to him, so the Dada got rather annoyed and came to me protesting that I was interfering with his men. I said: "No, I was just asking this voter as I have a right to ask, the name of the candidate for whom he was voting, but he does not seem to know him, not even his name." The answer came straight and immediately: "He is not supposed to know him or his name, I know it and that is enough." Well, Sir, that was in A Ward which we consider to be the most advanced ward of our little City where fortunately some of us who are elected from the A Ward, have to deal with a much smaller number of this type of gangs than my colleagues in the B, C, D and other wards. I felt sorry for them and I said to myself: "Their lot must be a hard one." That is what I experienced in my very first election. In the second election I had the same experience; the only difference was that in the second and third elections I did not venture to ask anybody. I knew what it was and I had simply got reconciled to the situation. Many offers came to me also through my

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election agents whether certain chawls should be covered through certain Dadas. On principle I objected. I said whether it is within the law or not, it is not fair that persons who do not know me or my name should vote for me. That I think is democracy and I am sure my friends opposite also think that that should be the cardinal principle in democracy. Now that the franchise has been reduced from 10 rupees to 5 rupees, it will simply magnify this evil. We have talked about drink evil in connection with prohibition. This is an electoral evil, if you like, and I honestly feel that democracy will be ridiculed or defeated through our rapid extension of franchise at the fast rate at which we are going. That is what I honestly feel, however much I should like that adult franchise should come. As I was looking into some of the English Acts relating to the Municipal Corporations and boroughs, I found that even in England adult franchise is not extended in the sense in which we are extending same here or attempting to do so. I am thus rather nervous about this rapid pace at which we are moving. Let us wait and watch the experiment of 5 rupee franchise which comes in next year and judge thereafter. That is what my feeling happens to be. Ten-rupee franchise has not proved quite a satisfactory franchise as will be remembered by those who read in the Press immediately after the last municipal election in which cart-loads of innumerable personations were successfully and openly effected and in which numerous other abuses prevailed. Very few offenders were actually brought to book though people clamoured all over the city about these personations. I know of them myself because a large number of superior voters came to my booth to vote for me and found that their names had been already voted on. I lodged a certain number of objections at first, but later finding that they were too many I lost heart and thought it was useless to go on because I was losing good voters by keeping out of my booth recording objections every time. That was, Sir, my experience at the last election and the same has been the experience of almost every candidate at the last election of our Municipal Corporation. This experience has made our Corporation turn its face strongly against adult franchise as proposed. Our Corporators are not irresponsible people, as was said by some in the Lower House. If members elected on 10-rupee franchise are irresponsible and if only adult franchise is to bring in responsible leaders, what do you think of the days when men like Sir Pherozezshah Mehta, Sir Bhalchandra Krishna, Mr. Vithalbhai Patel, Sir Dinshaw Wacha, Sir Ibrahim Rahimtoola were elected on more conservative franchise? Were they not the leaders of the people selected by the people who ruled the Corporation and ruled it so wisely and so well that the Bombay Corporation today has earned the reputation to be the best Corporation in the whole of this country?

Sir, I say that the lower the quality of the electorate, the lower will be the personalities of the leaders that will come in. My friend the Honourable Mr. Patil thinks otherwise, if I am right in what I have read about his speech, but I can assure him from my personal experience that his way of looking is wrong. My experience has convinced me that if we go

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slowly and by gradations, the electorate gets gradually taught and trained. We shall have the evil no doubt connected with these extensions, but the evil will be limited and we will suffer the limited evils in the hope of teaching the electorate gradually to learn how to cast their votes properly. But if you rush suddenly into adult franchise, I do not know how you are going to supplant personations and other evils. I may tell my honourable friend, for whom I have very great respect, that soon after this election, the Corporation itself referred the matter to the Law Committee for investigation with a view to try and find out the causes for this evil in order to remove same. I happened to be the President of the Law Committee at the time and I, with the Municipal Commissioner and others, sat for days together with my other colleagues on the Committee with a view to find out ways and means by which we could eradicate the evil. We framed new rules, as far as rules can prevent these malpractices, and hoped for the best. At that time we had not the idea that we were face to face with adult franchise. We were thinking of the evils of the ten-rupee franchise and even there it appeared to us that the task set to us was tremendous. We knew full well that these rules that we were framing were going to be broken. But we did what best we could. If, however, adult franchise comes in, I am sure no rules that you make will check personations or all other malpractices. I am therefore suggesting a stay if possible, a halt, which I know the Government being badly committed will not agree to. However, I consider it my duty as a citizen of Bombay, as a Corporator and as a democrat, even at the expense of incurring some unpopularity from some of my idealistic friends, to put this view on record, viz., that we are not yet fit for adult franchise and I warn Government that this adult franchise will not work satisfactorily. The Honourable Mr. Patil said, as I understood him, if not I stand corrected, that ten-rupee franchise is open to evils, five-rupee one will lessen them and that adult franchise will make them still lesser as people cannot buy so many votes. I, with great respect, beg to differ from him. As you extend your franchise, you shall have to sub-divide the wards and the number in each constituency will remain small. The sub-division will have to be done in the interests of proper supervision and organisation and the area will grow smaller, which will be certainly worked upon by malpractitioners also in the same manner as it has been in the past. There is no doubt as to that. These chawmen whom you are giving adult franchise will never come to vote unless there is some attraction for them to come and vote. They will not vote on political or civic grounds, the majority of them are not so interested and there lies the difficulty of the whole position. The first step, therefore, should be to train the electorate and to spread compulsory education in this City. We in the Corporation have been spending 32 to 34 lakhs of rupees a year and are still unable to introduce compulsory education, even primary compulsory education, in more than three wards out of so many. We want such a large amount of money to do that and thus are helpless. The Government is not able to help us because the Government finances are also low. The result is that this first remedy which will bring us nearer the perfect adult franchise day is not working. Compulsory

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and free education is non-existent in this City and thus I cannot understand how it should be thought that the City was fit for adult franchise extension in such a great hurry. That is how I honestly feel. As far as the amendment is concerned, Sir, I have finished. Shall I go on with the Bill now ?

The Honourable the PRESIDENT : Yes.

Professor SOHRAB R. DAVAR : With regard to most of the other points covered by this Bill, I am glad to state that I am in entire agreement with the honourable gentleman opposite. First of all, he has sub-divided the wards. Though in the Corporation some people were against sub-division, I was for sub-division, because I could see that the wards would become unwieldy in the five-rupee franchise and the correct thing was to sub-divide so that we could control and supervise better.

Then, Sir, on the other point of management of Schools Committee, I am entirely in favour of what he is doing. Our Schools Committee with all its defects was formerly working satisfactorily. Defects there will unfortunately be, as we all know in the working of all such committees. A certain amount of jobbery is not unknown in democracy. All these must happen more or less.

But our Schools Committee was working satisfactorily. But goodness
3-30 p.m. knows why, on an evil day, my good friend Rao Bahadur Bole sprang a surprise upon us by bringing his Bole Bill. The Corporation in its resolution, as far as I remember, condemned it. We were all angry against Rao Bahadur Bole, whom we always called "good old Bole". We were surprised to find that our good old friend Rao Bahadur Bole should have introduced such a Bill. It was the most iniquitous and absurd measure that could be conceived by the brain of man. In the committee of twelve elected members from the Corporation he put four members of the depressed and backward classes, and four Mahomedans, on the ground that they were all backward and uneducated, and the rest of the 4 seats were allotted to all the other castes, namely, Hindus, Parsis, Christians, Europeans and Jews combined. This is how the new Schools Committee was formed. With some outside additional members the machine was made to work. It made a lot of creaking and jarring noise as it moved, and every time it made a noise, news came to us in the Corporation about all types of abuses. Communalism worked with its big head and giant jaw in connection with appointment of teachers, similar to which the Prime Minister talked about yesterday in connection with District Local Boards. I did not want to refer to it on that occasion, particularly because I thought perhaps he might make a point of it against me. But these things occur, as I said to the Prime Minister, when the constitution of the school boards is defective in case of districts, and the cause of the evil was the same in our case. Our schools committee constitution was defective during those years due to Bole Bill and we had to suffer. I am glad that with one stroke of the

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pen the Honourable Minister has removed this defect, and I must congratulate him personally as well as the Cabinet for having boldly done that.

I am also entirely in favour of nominations being done away with. Perhaps nominations in the time of the Congress Government would not have worked so badly as they did in the time of the previous Governments. But after all is said and done, nominations are nominations, and sooner they are done away with, the better. On the contrary, I must congratulate the Congress Ministry for having done away with nominations, in spite of the fact that they could have got about 15 to 16 persons nominated from their own party and thus assured themselves of a majority. I must say that this act of theirs will convince even non-believers that they are acting impartially, and they do not consider even their own party advantages when they find that nominations were really not working satisfactorily. For that also I must congratulate them, though some of my friends in the Corporation may not like what I am saying here. I do not wish to take up further time, as we are cutting short our time, and need only add that in every other direction I am in agreement with the Bill on principle.

One thing I cannot pass without mentioning. Otherwise, I would be very ungrateful indeed. That is in connection with clauses 11 and 13. The Honourable Minister now seems to have seen the defects that had crept in the Bill. One evening when I was leisurely looking through the Bill, I noticed them and immediately reported them—I hope I am not disclosing a secret—to the Honourable Mr. Patil and sent a copy of my communication to the Honourable Mr. Kher. Immediately the reply came that the matter was being looked into, and I must publicly acknowledge with gratitude that my request to them has been carefully attended to, and they have not only amended clause 11 a little in the lower House, but according to my conversation with the Honourable Mr. Patil two days ago he has also gone further, and today I understand that Government are going to move an amendment. I am grateful indeed for this courtesy and attention and want to place on record that as a member of the Opposition, though a friend of the Government, I am very grateful indeed. I can also assure him that the Corporation will also appreciate that fact when I communicate same to them that this has been done, and that thereby no plural voting under adult franchise will be allowed to residents. Sir, I have done.

Mr. S. C. JOSHI : Sir, it is with very great pleasure that I rise to speak on this motion for the first reading of this Bill, and I give my wholehearted support to almost every proposal in the Bill. The changes proposed in this Bill are so good and so proper that they ought to receive the support of everybody. This Bill is really a bold step forward and shows the courage of conviction of the Ministry and of the Minister in charge of this Department.

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The question of adult franchise, which is one of the principal questions of this Bill, was thoroughly discussed, and although the Government wanted to give a chance to the Corporation to make up its mind on this question, the Government seem to be thoroughly convinced from the attitude of the present Corporation that it will hardly be possible for that body to agree or to accede to such a change; and when the Corporation itself decided against adult franchise when its opinion was asked for, it was fair and very proper on the part of the Government to take the bold step of introducing adult franchise immediately through this Bill from a particular date. It is not now left open to the Corporation to pass a resolution and after the passing of that resolution for the Government to give effect to it and introduce adult franchise. I think this is a very important step that Government have taken. It may be that some members might entertain doubts and fears about this change.

It is very easy to say that there will be corruption, that there has been corruption, personation and other evils on even the reduced franchise, and when it is further reduced and adult franchise is given, the evils will be very much increased. I for one feel that this intermediate step is more responsible for these evils, and if we once take the bold step of adult franchise, these evils will be minimised. Today it is very easy at least for those who can afford to pay and offer bribes or illegal gratification to certain people, or to spend large amounts on elections, to secure a large number of votes. But when the electorate is so large and almost every adult is given the right of voting, it will be difficult to approach so many people, and therefore even the number of those who can spend improperly on elections will be much reduced. The evil will disappear by the change that is now sought to be introduced.

Again, the representatives that will be elected will undoubtedly be more democratic than the representatives that are now elected to the Corporation. I for one do not fully appreciate the view of the honourable member Professor Davar when he says that democracy will be reduced to a farce. I do not understand how democracy will be reduced to a farce when the representatives who will be elected will be the representatives of the people. So long as all the people are not given the right to vote, the representatives will not be the representatives of the people, but will be the representatives of a section of the people. And why should a section of the people only be given the right to elect the representatives who will be called the representatives of all, and not only of those who are entitled to elect? We have seen that as a result of the lowering of the franchise by the Government of India Act, a large number of people went to the polling booths to cast their votes. In the city of Bombay, with the redistribution of the wards, it will be very easy to have elections, and a very large number of voters will find it convenient to cast their votes in favour of their real representatives.

At the time when the Bill for the amendment of the City of Bombay Municipal Act was before this Council on the last occasion, I had expressed

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the hope that the Honourable Minister should show courage and bring forward such a Bill, notwithstanding what the Corporation had to say. He has done it, and I am extremely glad that the fears which I had entertained on that occasion were groundless. I had hoped that such other steps would be taken in all directions, notwithstanding the view that might be expressed by the opposition or the persons who are interested.

The other important changes introduced by this Bill are the abolition of nominations and the reconstitution of the schools committee. These changes were long overdue, and it is very pleasing to note that effect will be given to these changes from the next elections.

Of course, I also share the same views as those of the honourable member Professor Davar, that under adult franchise nobody should be entitled to vote more than once on any ground. That was the provision embodied in the Bill, but the matter is made very clear by the amendment of which notice has been given by the honourable member Mr. Shah. Nobody will be entitled to exercise his vote twice. He must vote only once, although he will be entitled to have a vote in two, three or more capacities.

This Bill, as I submitted in the beginning, is a very good measure, and I give my wholehearted support to it.

Mr. R. G. PRADHAN (Thana *cum* Nasik *cum* Ahmednagar): Sir, I strongly oppose the amendment moved by my honourable friend Professor Davar and support equally strongly the Bill moved by the Honourable Minister for Local Self-Government. Before I state my reasons for opposing the amendment, I would request the attention of the honourable members to the wording of section 8 of the Bill. It is :

"(1) For sub-section (2) of section 11 of the said Act, the following shall be substituted, namely :—

'(2) A person shall not be entitled to be enrolled in the municipal election roll as a voter of any ward, unless such person—

(a) has, on the 30th day of September in the year preceding that for which the roll is being prepared, attained the age of 21 years, and

(b) has the requisite residence, business premises or taxation qualification'."

Sub-clause (3) states how or when a person shall be deemed to have the requisite residence qualification. By laying down these requisites, the Bill does not give franchise to any and every person in the city. For instance, those waifs and strays in the city, with whom I quite sympathise, who probably for no fault of theirs have to lead a very precarious existence and have to pass nights on the pavements of public buildings and so forth, such persons who have no qualification of residing in a dwelling, will not have the franchise under this Bill.

But apart from this, my great objection to the amendment moved by my honourable friend Professor Davar is that it makes the introduction of adult franchise contingent upon a resolution being passed by the Bombay

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Corporation in favour of adult franchise. I request honourable members to note the phraseology of his amendment. It says :

" If on or after the first day of April 1939 the Corporation by a majority of councillors present at a duly convened meeting decides.....' etc.

The result of this amendment would be that if the Corporation does not declare itself in favour of adult franchise, Government can never introduce it ; that Government will be prevented at any time from introducing adult franchise if the Corporation does not declare itself in favour of it. My submission to the honourable House is that the responsibility for deciding whether there should be adult franchise in Municipal elections or not rests primarily on the Government and that responsibility must not at all be divested. It is the function and the duty of Government to decide whether adult franchise should be introduced or not, and no Government should abdicate this function. It cannot resign this great responsibility in favour of any extraneous body, however important it may be. This amendment makes the Government dependent upon the resolution of the Corporation for introducing adult franchise and this, I submit, is a fatal objection to the amendment.

Now, Sir, I will just briefly dwell on the question of adult franchise on its merits. Those who may have read the report of the Franchise Committee presided over by the Marquess of Lothian will probably note that his main objection to the introduction of adult franchise in the election of the Provincial Legislatures was that there would be a breakdown of the electoral machinery. That was his main objection to the immediate introduction of adult franchise. Now, I submit that whatever force that objection may have, in the present condition of our country as a whole, to the introduction of adult franchise, for the elections to the Provincial Legislatures, that objection ceases to have much force and much validity so far as election to the Bombay Corporation is concerned, and I think that the Bombay Government will be able to devise quite an efficient machinery for the purpose of holding elections under this franchise.

The arguments against adult franchise are repeated very often and they are, in fact, so well known that they have become commonplace. My honourable friend suggests that in the first place there should be compulsory education, that the people should be trained to exercise the right of election, trained in responsibility, and then the adult franchise should be introduced. My honourable friend knows that if this principle is accepted and if it is logically followed, a considerable section of the voters for election to the Provincial Legislature will be deprived of the franchise. Among the voters for election to the Provincial Legislature there is a considerable number of voters who are absolutely illiterate, and if this principle is to be regarded as sound and is to be logically followed, those people will have to be deprived of the right which they possess at present. It has often appeared to me very strange why a man who pays Rs. 8 should be regarded as a person fit to enjoy the

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franchise, and why a man who pays only Rs. 2, or Re. 1, or does not pay anything at all by way of taxation, but is otherwise fairly intelligent, fairly understands the state of things, should be disqualified from exercising the vote. Sir, on the whole my submission to this honourable House is this, that considering this question from the lowest point of view, the time has come when an experiment might well be made in this great, progressive and enlightened city in adult franchise. The other day, while speaking on the floor of the Assembly, the Honourable Minister said that it was his ambition to make this city an ideal one. That is a very laudable ambition with which everybody, I hope, will express his satisfaction, and our duty is not to oppose the Government in their intention to introduce the principle of adult franchise so far as the Corporation of Bombay is concerned, but to help the Government in every possible way in their ambition, the very laudable ambition, namely, of making the City of Bombay in every way a great City of which we may have every right to be proud.

I submit that this Bill ought to receive the support of each and every one and I take this opportunity of congratulating the Honourable Minister upon introducing the principle of adult franchise in this Bill. With these words, I commend this Bill to the acceptance of this House.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I support the amendment moved by my honourable friend Professor Davar. It is all very well to say in the name of democracy and other things that the majority will not crush the minority, but if the Municipal Act be gone through, you will at once find that in the old old days a certain number of councillors were elected only by J.F.s and a certain number by landlords, and that was called high franchise. Then after considering and going step by step, and not with the Punjab Mail speed with which our Government is going, it was thought necessary that only the property holders and certain tax-payers should be given the opportunity of electing the members on the Corporation. Thereafter, it was thought necessary that Rs. 10 franchise should be introduced and it had certain effects. Now, without giving any trial to Rs. 5 franchise our present Ministry all of a sudden changed their mind and brought this Bill to amend the Municipal Act of 1888 with regard to adult franchise, sub-division of wards, doing away with nominations etc.

Sir, Government asked the opinion of the Corporation. The Corporation said that they were not in favour of adult franchise or the sub-division of wards, but were in favour of abolishing nominations and making some other minor changes. Therefore, is it fair to this Government today to bring in this Bill? May I ask the present Ministry whether it is fair to crush the minorities by giving this adult franchise? I wholeheartedly support Professor Davar's amendment which is as follows:—

"If on or after the first day of April 1939 the Corporation by a majority of councillors present at a duly convened meeting for the purpose decides by a resolution that the system of adult franchise be adopted for the purpose of general election...." etc.

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Sir, during former days when I used to go and ask certain prominent Congressmen, they said that the Corporation is an autonomous body in the sense that they are doing their work well, they are conducting their affairs very nicely, we have nothing to complain, and so on. Only recently the Prime Minister and the other Ministers, when they came to

4 p.m. the Corporation, opined in the same manner that there is no maladministration or anything to complain of. Why should then this Ministry come forward and say: No, if the municipality were to change its rules, it will have the rules submitted to Government before they are put into practice and so on and the Government want to interfere in the affairs of the Corporation which is doing its business absolutely fairly and squarely? Sir, may I ask the present Ministry whether it is fair for them and I know that they are just, fair and truthful and they have shown from their actions that they are acting fairly and squarely. Would they come forward and say "take the average of last 10 years of the minority communities represented on the Corporation and give them certain number of seats"? Have they got that conscience and courage to say "take the average of 10 years for all the minority communities—the Parsees, the Mahomedans, the Jews, the Europeans, the Anglo-Indians"—their average be taken and certain reserved seats be kept for them? Let there be adult franchise or anything of the kind. Never mind the Congress-minded Europeans or Christians or Parsees may be supported by the Congress. Come forward and encourage them to be elected, but is it fair to wipe out the minorities in the way you are doing? I understand and correctly too that the Minister in charge is guided by certain persons to embody all these amendments of the Municipal Act. Sir, I know that in 1939 when there will be 5-rupee franchise there will be a majority of Congressmen. (*Interruption.*) Then in the new Corporation there will be a majority of Congressmen. What harm is there to ask and elicit opinion of the Corporation whether they want adult franchise and sub-division of wards? No one then would come forward and say that we have any complaint against it, and that the Ministry has done a wrong and unfair thing. Is it fair, I ask the Ministry now, that by this adult franchise every third man will have a vote? There will be 6 lakhs of voters in the Bombay City as every third man will have a vote. Does my honourable friend, the Honourable Mr. Patil, know that except one or two men no Parsee will be returned to the Corporation if this adult franchise comes?

Mr. N. D. DEODHEKAR *rose.*

Mr. B. N. KARANJIA: The honourable member will not interrupt me as he can have his own say later.

This adult franchise is to be put into effect from 1942. Why is there such unnecessary hurry, I do not understand. First a letter was sent to the Corporation. Then a second one was also sent which was withdrawn. I do not know what happened during that time that the letter

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was withdrawn. Sir, what hurry was there that the very next day after the Resolution moved in the Corporation, the Bill was brought before the Assembly? May I ask where was the hurry that the very next day the Bill was discussed in the Corporation, it was brought before the Assembly? Is it fair not to give the chance to the Corporation to think over it and to hurry up Bills of this character to crush the minorities and I am sure and I will prove if I will be here in the next Council that the minorities' claims have been ignored. Mahatma Gandhiji had said when the Poona Pact was being considered at Poona and when we had an occasion to see him that the minorities should not be afraid of anything and that Minorities' claims would be protected and now, Sir, all of a sudden the adult franchise and all things without asking the opinion of the Corporation are going to be rushed through this Bill. Sir, I am not against adult franchise, I am not against sub-division of wards or anything. My only point on principle is why do you not ask the opinion of the Corporation which is a premier body. Supposing tomorrow the Central Government comes forward and says: Oh, you Provincial Government, although you are autonomous, you should not do this and should not do that, will you tolerate that? I say, Sir, and I appeal to the Minister in charge that in the name of God, I plead to him to consider this matter thoroughly and to have it done in the manner best fitted according to his conscience and the conscience of the other Ministers. I feel, Sir, because when any just cause is brought before this House we have always supported that and we are going to support. We are also in agreement, we are not against that, but still, I say, is it fair, is it proper, is it justifiable and is it honest to bring forward this Bill to wipe out minorities?

Sir, the Ministry at one time says that everything is alright with the present Corporation; then they come forward and try to interfere with the affairs of the Corporation. There are many changes which will be discussed here clause by clause and I would have my say then, but I may say here that have they thought and considered thoroughly the opinion of the present Corporation? The finances of the Corporation come to about 4 crores of rupees and the Government finances are about 12 crores of rupees, and the opinion of the body which brings 4 crores of rupees should always be considered by the Ministers. To ignore this Corporation, I think, is absolutely unfair for our Ministry. Never mind if they say that they do not agree. Let us have a conference with them, let us try to weigh their opinion, let us try to have your opinion, and then you may come to certain conclusions. May I ask the Honourable Minister Mr. Patil whether he is aware of the inner affairs of the Corporation? From this Bill I find that there are certain men within the Corporation who do not know about the inner working, but there are certain people who are on the Corporation who study all the things and they have been prompted to bring this matter before the Minister in Charge. Why do we not have a full conference with the Corporators along with the Ministry, and where is the hurry? You may have adult

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franchise in 1942 if you want to have it. Have you ever heard in the world that 4 years ahead such a Bill is brought? And why, for what reasons? No reasons have been assigned here that the changes have been brought for particular reasons. How are we to understand what is behind the mind of the present Ministry that they have brought this Bill four years before? I have not heard anywhere in the world that a Bill is brought four years before and then it is to be put into force in 1942. Why is that? Why not wait for one year? Why not elicit opinion of the Corporation? To stultify the Corporation's opinion is not fair on the part of the Minister in Charge.

Sir, I have nothing to add, but I support the amendment and when the Bill is read clause by clause I will have my say.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, it will be admitted on all sides that adult franchise would be an ideal stage and those gentlemen too who have expressed their doubts or who have expressed their disapproval of what is coming on will, I think, admit that the stage of adult franchise will be the best. Their fears are whether it will be properly used or not because the electorates are not properly trained. I think that must be one of the reasons why this Bill is brought forward four or five years earlier. Elections on the basis of adult franchise are to take place in 1942 and the interval will be utilised for the training of voters. Government and social and other workers will take care to see that the voters are properly trained. At least an effort should be made in that direction. Just as Russia deserves the gratitude of the whole world for offering its nation, its population and resources for the experiment of communism, the city of Bombay will deserve the gratitude of possibly the whole of India for offering the whole city with its vast resources for this experiment of adult franchise.

Sir, I support the principle of this Bill.

*Dr. P. G. SOLANKI: Sir, this Bill relates solely to the affairs of the Bombay Municipality, and the working of the various committees and various departments of the municipality is being discussed here. My honourable friend Professor Davar laid his case before us in his own usual way, running down some and praising others. I, on my part, would like to put a few facts before this House and the facts are about the various points on which I am going to speak. Firstly, about the question of adult franchise. This has been the burning topic of the day; wherever we go we find that this is the discussion between members of the Corporation, amongst citizens, merchants, speculators and others. What is the result? Opinions divide. The rich class, the privileged class, which was upto now in position, is trembling now. They are shivering because they know they will fall from their highest pedestal which they had reached by means of their influence, money and position.

* Speech not revised by the member.

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My honourable friend Professor Davar told us of the old golden days of Sir Pherozeshah Mehta, Sir Dinshaw Wacha, Sir Ibrahim Rahimtoola and other big people. Before that, my honourable friend Mr. Karanjia talked about the town councils which consisted of Justices of the Peace and these justices of peace, as far as I remember were not elected but were appointed by Government. So, these people who selected members from among themselves could not be the representatives of the whole city of Bombay. Later on, as we passed the landlords were given franchise and who are the landlords? Millowners and big merchants who were paying rents to the tune of hundreds and thousands of rupees were enfranchised and from amongst them my honourable friends Professor Davar and Mr. Karanjia could come. These people who had been enjoying the fruits of the toil of the people of this city are now coming forward and saying "Oh, minority in danger". When we helpless minorities come forward with our wages and miseries none of these minorities come to our help. They never sympathise with us. Uptil now, these my friends here were safe in their cosy corner and in their bungalows and they were telling us that they were afraid of nothing. They would come in on their merits. Then why are they nervous now? They have got money, position and they have got that sweet, persuasive nature by which they can win over any Government. Such a minority need not be afraid. They can adapt themselves to any time. Let the rulers be the despotic Moguls or Baluchis or the mild Hindus they will always adapt themselves to the times. Now the *swaraj* is of mild Hindus. I can very well understand the fears of the Mahomedans. The Mahomedan gentlemen may have their own tale to tell here. I will leave it to my honourable friend Khan Sahab Khan to say that. I am speaking on behalf of the down-trodden and the most neglected and the backward people. I know for some time to come adult franchise will not do much good to these classes for it has been my experience in the past election for the Assembly that my votes were taken away by these rich people in the Surat District. They snatched away my seat. It is our misfortune, but how long is it going to last? How long is their money going to help them? These people, owing to their money and position, are out of their senses. They come here and simply adorn and break the chairs. They do nothing. Such men are not wanted here. Real workers are wanted. I am not talking about any particular individual; I am speaking generally. I have no fears about adult franchise. Of course, I do not want it tomorrow and Congress also does not want it tomorrow. Though the Corporation had its meetings, had its conferences the Corporation is divided. A section there is which wants adult franchise tomorrow or even today. There is another section of the type of Professor Davar and Mr. Karanjia and others who will say "Put it off". Put it off till the doomsday. Then there is Opposition. Though the Opposition has given a promise that adult franchise will be their goal yet they themselves have delayed it and they say that it should come in 1942. Of course, I realise their difficulties. It is not an easy thing to overhaul the whole machinery and to bring in 6 lakhs of voters to separate booths and centres. They

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thought it wise to divide and sub-divide the wards and they have so done it that each and every community will find it very convenient to secure and get the votes registered. Seats have been taken from the Mandvi and the Fort Wards and given to the north of the Island where the population has increased. I submit that seats have to be fixed on population and population basis alone. If you talk of democracy, have it in its full swing, and I ask my friend Professor Davar to accept it with both hands instead of shrinking back from it when the question of adult franchise comes. Then democracy has its own disadvantages too, and those people who had been up till now in the advantageous position shall have to come forward to help unfortunate, poor, labouring classes and those *nayunies* and others who came to vote for Professor Davar and his friends. They also ought to be trained and taught the value of votes.

Professor SOHRAB R. DAVAR : I had no *nayunies* voting for me.

Dr. P. G. SOLANKI : For your brother, if not for you. But let us not run down the poor toiling masses, the farmers or the labourers who had not the good fortune of going to school like myself or my friend Mr. Karanjia or Professor Davar and others, because their economic condition would not allow them to do so. But they have got strong common sense. They have their own daily business, and they never suffer any inconvenience or loss on that behalf. Are such men to be run down simply because the vote is to be exercised by them ? And that voting not only the men but the women also are exercising, the women of the illiterate classes are exercising, and they did exercise in the last election and it worked well. There may be impersonations, I do admit; but were there not impersonations in the old times ? I may tell my friends from Bombay who belong to the Bombay Corporation, remember the days of co-option. At that time the most respectable men were members of the Corporation; by respectable I mean rich men, highly educated men, men of position, and men who had the good fortune of being invited to Government House. Such men were there, and at the time of co-opting members for the Corporation, I may without fear of contradiction give it out that Rs. 2,000 and Rs. 3,000 were paid for one seat. And who received the money ? Members of the Corporation who were rich got it from the men who came in. Sir, this was the condition, the corruption, the worst type of corruption. I would say that was the corruption of the *sharif* people and the most respectable people, and such corruption was tolerated. Now when adult franchise is coming, my friends tell us that the heavens are going to fall and they are going to be crushed. I say, God be with you.

As regards the minorities, the European community do not care about your future. They are here for commerce. They do not care much for the civic life and other things, as long as their hotels and other things are safe and they get their half peg or peg every evening; and here is the Prohibition Minister who allows them that and who has put them in the same category as the savages, the Bhils and others. So they do

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not worry about it. Their civic life, their heart is in their home, there in England, and not here. They are here as sojourners. They have come to make money from business and commerce, and what do they care for your interest here ? I am afraid my friend Mr. Stones may not like it, but I am speaking frankly and he will realise it, appreciate it and relish it. I ask in all earnestness, how many Europeans have contested the elections to the Bombay Corporation ? Very few. They are returned by the special interests, and those special interests are safeguarded by the Minister in charge of Local Self-government. So, they are safe.

It is we whose lot is miserable. Our nominations are taken away. Our reservations you have taken away. You have put us on a par with the highly developed, cultured, educated men like my friends Professor Davar, Mr. Karanjia and others. Where are we ? They and we are like the giants and the dwarfs. We have to fight our combats. Very well, we welcome that. We shall do it. The day will come when you will see that it is these neglected and hated and down-trodden people who will come to the rescue and the service of the city at large, and I do believe that they will come in larger numbers. The other people were monopolising the seats in the Corporation up till now. I can show you the difference. Look at the roads in the different areas of the city in the past years of the Corporation when these big people used to adorn the chairs. Look at the condition in the Fort area, Apollo Bunder and Colaba; look at the condition of drainage, sanitation, roads, lights and other things in the B ward, C ward, D ward and other wards and against that put the same things in E, F and G wards. Is there any comparison ? What a difference there is ! The slums are existing there. Every day there is the question of the slums in the Corporation, but there is no solution. Only yesterday we passed a resolution that Rs. 5 lakhs should be given to us for the purpose, and Government is to be requested for that. But Government will not be so very liberal enough to give us the money, because they have taken away Rs. 5 lakhs from the town duty that really belonged to the Corporation and they have provincialised it. That is really very unfair on the part of the Government. All the same, things which we cannot cure must be endured, and in the same way we minorities must endure as we have endured for over 1,500 years. And now adult franchise is coming.

I do say, Sir, that I do congratulate the Government that they have taken things cautiously. The year 1942 is not too far away. The 1939 elections on a five-rupee franchise will teach us lessons. After that there will be elections in 1942 on the basis of adult franchise. So everybody would be wiser.

Now, coming to the schools committee, the much maligned schools committee, it seems that my honourable friend Mr. Jamnadas Mehta down below in the lower House ran down and ransacked the character of the members of the schools committee. As if Mr. Jamnadas Mehta and some other members of his type have got the monopoly of transacting business in the proper way and the other members who are on the schools committee are to be condemned as not having any qualification. My

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dear old friend (*Interruption*)—I say old because I have been seeing you for the last 40 years—my dear old friend forgets that on that committee there are graduates and double graduates, there are educationists. Whenever it serves the purpose of these orators and these agitators, they talk of the spirit of the times and they harangue, but they forget what they are doing. In the same way, my honourable friend Professor Davar talked like that. He ran down the schools committee. Why? Because let me tell you, Sir, in the municipal schools not a single Parsi child goes. It is below their dignity to go to a municipal school. They have got charitable schools, their own schools, to which we give grants—by we, I mean the schools committee. But all the schools belonging to the municipal schools committee are attended by the children of the poor and middle class Hindus and Mahomedans. I cannot understand why, when my honourable friend Professor Davar has no knowledge and experience of this committee and the working of it and the difficulties with which the members were faced, should talk of these things without having any book in front regarding the working of the schools committee.

Sir, the honourable member ran down my old friend Rao Bahadur Bole. Why? My honourable friend Mr. Karanjia says that the minorities are going, that they are being crushed and they will be nowhere. Adult franchise has not yet come, and here he is in fear, with not a moment's peace, and he does not get sleep even. But what about Rao Bahadur Bole? Rao Bahadur Bole's community people are nearly 2 to 3 lakhs in the city, or, I should say, 4 lakhs in the city proper. My community people, I mean the scheduled class people, are nearly a lakh and a half, or perhaps nearly 2 lakhs. The population of my friends the Mahomedans is nearly 2 lakhs. Who took care of them in their education? I ask this serious question. Money has been spent right royally by the schools committee. But what is the condition of the education of the children of the Mahomedans and of the intermediate and backward classes? I ask Professor Davar this question. Can he reply to that? Had it not been for Rao Bahadur Bole coming forward with his measure, there would have been no improvement in their education. That is the feeling of each and every Maratha, that is the feeling of the Mahomedans, and that is the feeling of the scheduled class people, that their men must be on the spot to guide, if not to guide at least to put their views before the schools committee which is sitting in judgment and which is spreading primary education amongst the people of Bombay city. And was it a sin that Rao Bahadur Bole brought in this representation?

4-30 p.m.

It was with open eyes that the last Council accepted that. I believe Mr. Ali Bahadur Bahadur Khan said in the lower House that the Mahomedans oppose. Yes, I know which Mahomedans oppose, which Mahomedans play double games and which Mahomedans are known for their hide and seek policy. I know each and every one of them. But all the same the Mohamedans coming on the Schools committee has done much good to their Urdu education. The Marathas coming on the Schools committee have safeguarded the interest of the Marathas,

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but the Scheduled Caste people, the poorest of all and the most neglected have not yet been able to get their fixed percentage of quota of their representation in recruitments and other things in the schools committees as teachers and as other servants, even as peons. I am not satisfied with Professor Davar telling me that our interests would have been safeguarded by persons of the fashionable type, coming in and adorning the chair because they have got academical qualifications. Would they ever care for us? It is the men who feel the reality of the grievances of these people that come to their rescue. Now, their reservations are gone. They say, "They are quarrelling every day." For what purpose? I say that the advanced classes have recruited their teachers and sent them to the training colleges to such an extent that they are there 2 or 3 times more than their real percentage. The Intermediate are up to 60 per cent. and the Scheduled Classes have been sent up to only 4 or 5 per cent. In the schools, though there are teachers available who are B.A. belonging to our castes, they are not appointed. And when such is the state of affairs would there be no quarrels? I am glad that there are only quarrels and that there is no throwing or flinging of chairs as is done in the House of Commons and in the Parliament. This is a matter of right and this democracy has taught us that. My honourable friend Professor Davar cannot prevent us from having our rights. If you do not give them graciously and willingly, we shall snatch them, if not in a friendly gesture, then by force and the days are coming and it is those thoughts which are hanging heavily upon the minds of my honourable friends Professor Davar and Mr. Karanjia. But I should like to assure them that as long as there are honest public men among the Parsis, whose names I do not want to mention here, some other Parsi gentlemen will come if they do not come. Here is the example of the Honourable Dr. Gilder. He has come as a Minister with his favourite portfolio of Medical and Public Health, but unfortunately he has still left that Ahmedabad District without making it dry and they say that within three years they are going to make the Presidency dry. This is, of course, a side issue. This is only by way of awakening you.

Now, coming to the School Committee's position, I say it was essential that this communal representation ought to be there. This fact was borne out only four days back. Of course, I have not come here on the ticket of the Harijans as the Chairman of the Schools Committee, but let me take you into confidence and tell you that I have come on the majority of votes. But after my coming in the Chair what is the situation? All men who were lip-sympathisers, who were praising me for my blank and blunt and open talking, those very friends have left me, because I am in the Chair. They cannot bear the sight of Dr. Solanki being in the Chair, because he comes from such and such a community and here my friends tell me that communalism ought not to be there. It is born; it is rampant and let me tell you that the Parsi community on the whole is above communalism and they are bound to make common cause and I always support them. For what object? Because in the long run

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I have every hope that they will help us to rise above. I feel sure that they are very impartial and will help my people. I am not going to make any concealment of that fact. But the Parsis should not forget that the days are coming when they should be one with us all and not stand aloof as big bosses of the past days.

Now, Sir, I come to the question of the reduction of salaries. The Honourable Minister has taken into his head to interfere with the internal administration and management of the Corporation. It was rather very sacrosanct for honourable members like Professor Davar not to have alluded to that. I was very much surprised with this attitude. The salaries have been reduced. Salaries of whom? Of certain incumbents who unfortunately have no support; their salaries have been reduced. Other salaries are kept intact. This sort of step-motherly treatment ought not to be there. I request the Honourable Minister to go through that question and try to do justice to the persons who will be affected. This is, however, a thing which I cursorily mention. There is bound to be discontent amongst the people who will have to suffer on account of the reduction in their salaries. Consequently, the salaries will also suffer, they will go to dogs. Therefore, I request that such highly paid servants should not be treated like that. I may tell you that this reduction in salaries has brought about a lot of agitation and a lot of storm in the minds of many members of the Corporation.

Now, I have already spoken about the wards and their sub-divisions. Each sub-divided ward will have 5, 6 or 7 seats and we the minorities have no fear that we will have our men returned in flying colours. That is the assurance which I should like to give to my honourable friends here.

Now, A and B wards are practically deserted and the population on the Dadar and Mahim side has considerably increased. I think distribution list should be published as from one ward to the other ward.

Now regarding the voters it has been stated that they will be limited. All that I can say is that there were not very serious complaints about this and the illiterate farmers and *kheduts* and women who, from their villages, had come to vote in the *mafus* and bullock carts, voted well. The result was, the polling was all right. On account of the Congress, there has been a great awakening in the masses, even in the coolies and we find that coolies in the Bombay City are reading their vernacular newspapers by the evening and looking to the day to day events. This is a political change which the Congress has brought about amongst the illiterates and the masses and the sub-strata of human beings. And with all this awakening if my honourable friend Professor Davar were to say that these illiterate voters will create a havoc, I do not agree with him. On the contrary, I say that they should be taught by us, trained by us, advised by us to go to the polling booths and register their votes. I would request the honourable member to go to the houses and chawls of these people and give them lessons as to how to vote.

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Instead of doing that, my friend only wants to make speeches. The Congress people are going from house to house—mass contact. In the same way the Muslim League members are working. The Depressed Classes are not following that method, but still God will help them and they will have better days soon.

With these words, I support the first reading of this Bill. The principle of the Bill is very good, but there are certain points with which I shall deal at the time of the clause by clause reading.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : Sir, the first reading of this Bill has been opposed as it contains the principle of adult franchise, and mainly on two grounds, viz., that it will lead to corruption and that it will crush the minorities. Professor Davar, I am glad to find, agrees, that adult franchise is the ultimate goal for which all political institutions in the world should aspire. He however says that we should not hasten but should achieve that goal by a slow process. The present City of Bombay Municipal Corporation Act was passed in 1888 and the Corporation has been in existence for exactly 50 years now. If introducing adult franchise after 50 or 55 years seems to him to be too revolutionary, then perhaps he wants to introduce adult franchise after 100 years more. That may be his idea of evolution.

The other point he made was that in the past there were stalwarts in the Corporation and they worked in the Corporation efficiently; I may however tell him that good government is no substitute for self-government. He further said that there has already been corruption in the municipal elections and therefore, the introduction of adult franchise will lead to greater corruption. Well, if there is anybody responsible for this corruption it must be those people who are now in the Corporation or those who contested the elections and failed. The persons who resorted to bribery must be those who stood for the elections and one cannot expect such persons to resort to honest methods under any form of franchise. But what is the remedy against corruption? One remedy that is in the Bill is to have smaller wards so that impersonation will become more and more difficult. The other remedy is a very difficult one, namely, to improve the moral tone of those who stand for or vote at elections. I doubt whether it is in the power of any legislature to improve the general moral tone by any legislation. Corruption is the result of inequality of wealth. It is the rich who bribe the poor and buy their votes. If we try to improve the economic condition of the poor, the evil of corruption will automatically decrease. For that purpose, we must try to bring about economic equality, we must try to improve the condition of the masses and we must try to increase the national wealth. Economic equality is the ideal condition for the proper functioning of adult franchise. As to the honourable member Mr. Karanjia's fears that the minorities will be crushed, it is interesting to note that out of the 4 members elected to this House from the Bombay General Urban Constituency 2 are Parsia. (An Honourable Member :

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Was there adult franchise then ?) I am coming to that. That shows that on a high franchise Parsis have got 50 per cent. representation. Let us now look to the Lower House. In the Lower House, out of the total number of 175 members, if the Parsis were to be allowed seats on their population basis they would be entitled to less than one-half of a seat. But in the Lower House there are 5 Parsis. And out of these two are elected on the Congress ticket. It is really a compliment to the Parsi community that they are adaptable to all circumstances. Amongst the Parsi members in the Lower House I find that on the one hand Mr. Saklatvala represents the mill-owners while on the other hand Mr. Jhabvala represents labour. Therefore, their fears that if adult franchise is introduced they will not be returned are unfounded. Mr. Jhabvala is there to take care of them. Further, the method of election will be the same as it is now, i.e., plural voting. I find that out of 19 constituencies suggested in this Bill, there are 4 constituencies with 7 members, 6 constituencies with 6 members, 6 constituencies with 5 members, and 3 constituencies with 4 members. In the Calcutta Corporation where they have got 75 members and 32 constituencies there is only one constituency of 4 members, 5 constituencies of 3 members, 15 constituencies of 2 members and 11 constituencies of 1 member. In the Madras Corporation where there are 32 seats every one of the constituencies is a single member constituency. Here in Bombay, the lowest number of members in a constituency is 4 and the highest is 7, and the wards are so arranged that it will not be difficult for any community to get proper representation. There should, therefore, be no fear that the minorities will suffer in any way if adult franchise is introduced.

The Honourable Mr. L. M. PATIL: Sir, the honourable member Professor Davar stated that he is a believer in the principle of adult franchise, but he said that it must come by gradation, after experimentation, and to introduce adult franchise immediately would be a revolution. But, in my opinion, it is not a revolution but it is the first step towards the constitutional evolution. The right to vote is the most preliminary and natural right of every citizen. It is not a thing with which any experiment ought to be made. Then he said that people are ignorant, they are illiterate and they are guided by the Goondas and the Dadas. They do not know even the names of the candidates for whom they vote. He stated that groups of voters go to the polling booths without even knowing the names of the candidates for whom they are going to vote. But my experience is different. I know that even in villages the ignorant and illiterate peasants know the names of the candidates for whom they want to vote and they go to the polling booths and vote according to their choice. Literacy is not the only criterion of an intelligent vote. (*Hear, hear.*) He has said that people must be taught to vote on political and economic grounds, but may I know whether the people who are literate or who are property holders vote on these grounds necessarily? Property and literacy are not the only guarantee of a proper voting. People, when they are awakened do vote for the proper

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persons. The honourable member Professor Davar has said that while he was contesting the elections he had not gone to certain chawls. May I ask why he has not gone there? He ought to have gone there and explained to the voters living in those chawls how they should vote, for whom they should vote, what parties they should support and what party is working in their interest. He has not cared to go there because he was sure to get votes of other people. In an election the candidates naturally go to the voters and explain to them the programmes of different parties and naturally the people come to know in the election propaganda, what are the parties, what are the candidates, what are their names, what are their symbols, and by the time the election approaches they are ready and they are prepared to vote for the person whom they want. So it is not true to say that they do not know the names and the symbols and other things. It all depends on the propaganda carried on by the candidates. It is the duty of the candidates to go to the voters and explain to them all these things. The elections are becoming more and more competitive and the candidates do go and explain to them these various factors. So literacy and training are not necessary for intelligent voting. The honourable member has said that the evil of bribery will be rampant if adult franchise is introduced. The honourable member Mr. Shantilal Shah has rightly pointed out that when the franchise is widened there will be less chances for corruption or for bribery. I have heard stories of certain municipal elections. When the wards are small and the franchise is limited, it goes easy for the candidates to make calculations—and thus form a technique of elections. Suppose in a certain ward there are two seats and four candidates are contesting and the number of voters is 2,000. So they know how many voters will generally come to the polling booths and then they by arithmetical calculation come to the conclusion that if they get so many votes, say 200, they will be elected. So they give 5 or 10 rupees to each voter and get through the election. But, if there is adult franchise, the number of voters will be so great that the candidates will not be able to calculate and to find out that when they get so many votes they will be elected and they will not be ready to give bribes to the voters, and even if they give, they will not be sure that the voters will vote for them. When the number is limited, then they can check and detect whether the voters have voted for them or not, but in a wider franchise it will be nearly impossible for them to do so.

Then the honourable member Mr. Karanjia has said that by the introduction of adult franchise minorities will be crushed. Here I beg to differ from him. Especially in the City of Bombay, the Muslims, the Parsees, the Christians have got more seats than what they deserve on the population basis. Have they not got these seats by the votes of the Hindus and other communities? How have they been able to obtain these seats? Of course, with the votes of communities other than their own. So when the adult franchise is introduced, the only change will be that the number of voters of every community will be

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increased. After all, they have been able to get so many seats with the votes of other people and, if the votes are increased, there is not any possibility that they will get less. In the City of Bombay these communal considerations are not taken into account at the time of the elections. That is the experience of the people. They themselves say that these considerations are not existing in the City and they are proud of it. Then really I am surprised at the opposition to the adult franchise both in this House and in the Lower House from certain members of the Muslim League and also other minorities. There is nothing for them to fear if the adult franchise is introduced. On the other hand, adult franchise is the only way and the proper way to tackle the problem of the representation of minorities. If all the minorities are given the right to vote irrespective of property, or literacy, or sex or race, I think that in itself is quite sufficient to safeguard their interests. It is the right to vote that matters.

The honourable member Dr. Solanki has said that there are 1,50,000 Harijans. So if all the adults of the scheduled classes get votes, they will certainly be able to send people of their own choice. So adult franchise is really a safeguard for the interests of the minorities. We have not gone back on the Poona Pact as has been said by the honourable member Mr. Karanjia. The honourable member Mr. Karanjia has been very perturbed that the Government have brought this Bill before this House in spite of the opposition of the Corporation and he has said that we have not consulted the Corporation. All the provisions which are incorporated in this Bill were referred to the Bombay Corporation except clause No. 29, but that clause also has been amended and now I do not think there is any ground for grievance. If they do not agree, then does he mean to say that Government should not introduce these reforms in the Corporation? After all the Act which has been there, the City of Bombay Municipal Act has been passed by the Bombay Legislature and the Bombay Corporation is governed by that Act. So the legislature has every right to make alterations in that Act, if it is beneficial to the people.

Sir, I have met all the arguments which are put forward by the honourable members and I am much thankful for the cordial support that has been given by many of the honourable members to the principles of this Bill.

I oppose the amendment moved by Professor Davar.

The Honourable the PRESIDENT: Does the honourable mover of the amendment wish to say anything?

Professor SOHRAB R. DAVAR: I do not propose to say anything and take up further time, Sir.

The Honourable the PRESIDENT: I will put the amendment first. Amendment put, and negatived.

Question, "That the Bill be read a first time," put, and agreed to.

The Honourable the PRESIDENT: This is a convenient time to adjourn. I understand that honourable members will require some more time; so, instead of the usual half hour, the adjournment will be for 45 minutes.

(The House re-assembled after tea at 5-45 p.m.)

BILL No. XIX OF 1938 (AN ACT TO AMEND THE CITY OF BOMBAY POLICE ACT, 1902).

(Message from the Legislative Assembly.)

The Honourable the PRESIDENT: The following message has been received from the Legislative Assembly:

"In accordance with Rule 21-I (1) of the Bombay Legislative Assembly Rules, I am directed to inform you that the amendments made by the Legislative Council in Bill No. XIX of 1938 (An Act to amend the City of Bombay Police Act, 1902) were taken into consideration by the Legislative Assembly at its meeting held on the 5th May 1938 and that the Legislative Assembly has agreed to the amendments."

BILL No. XVII OF 1938 (AN ACT TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888).

The Honourable Mr. L. M. PATIL: Sir, I beg to move that Bill No. XVII of 1938 (An Act to amend the City of Bombay Municipal Act, 1888) be read a second time.

Question put, and agreed to.

Bill read clause by clause.

Clause 1 (*Short title*) ordered to stand part of the Bill.

Clause 2 (*Amendment of section 3 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 3 (*Amendment of section 5 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 4 (*Amendment of section 6 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 5 (*Amendment of section 7 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 6 (*Amendment of section 9 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 7 (*Amendment of section 10 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 8 (*Amendment of section 11 of Bom. III of 1888*):

(1) For sub-section (2) of section 11 of the said Act, the following shall be substituted, namely:—

"(2) A person shall not be entitled to be enrolled in the municipal election roll as a voter of any ward, unless such person—

(a) has, on the 30th day of September in the year preceding that for which the roll is being prepared, attained the age of 21 years, and

(b) has the requisite residence, business premises or taxation qualification.

(3) A person shall be deemed to have the requisite residence qualification or the requisite business premises qualification if he has ordinarily used a dwelling in the City as a sleeping place or occupied business premises in the City, as the case may be, for the qualifying period.

(4) A person shall be deemed to have the requisite taxation qualification if he owns immoveable property in the City which is assessed, on the first day of April next preceding the date of the publication of the roll, to any of the property taxes referred to in section 140.

(5) A person who is an inmate or a patient in any prison, lunatic asylum, hospital, or any other similar institution, shall not, by reason thereof, be deemed to have used such institution as a dwelling for the purposes of sub-section (3).

(6) For the purpose of this section—

(a) 'Business premises' shall mean premises occupied for the purpose of the business, profession or trade of the person to be enrolled and the annual rateable value of which, determined in accordance with the provisions of this Act, is not less than Rs. 60.

(b) 'The qualifying period' shall mean a period of one year before the first day of April next preceding the date of the publication of the roll."

(2) The provisions of sub-section (1) shall come into force for the purposes of the general elections to be held after the first day of January 1942 and for all subsequent elections.

The Honourable the PRESIDENT: As regards clause 8, there is some information which is sought by the honourable member Mr. Stones and I have got a typewritten note for the Honourable Minister if he wishes to see it. That is the information which the honourable member Mr. Stones wants. So, while the Honourable Minister is dealing with some amendment, he will give the requisite information.

The first amendment to clause 8 is that of the honourable member Mr. Joshi.

Mr. S. C. JOSHI: Sir, I beg to move the following amendment to clause 8:—

"In clause 8 (6) (b), for the words 'one year' substitute the words 'six months'."

Question proposed.

Mr. S. C. JOSHI: The clause, as amended, will read thus:—

"(b) 'The qualifying period' shall mean a period of six months before the first day of April next preceding the date of the publication of the roll."

Sir, under the clause, as it stands, for the residential qualification it would be necessary that the person residing must be ordinarily using a dwelling in the city as a sleeping place for a period of one year before the first day of April next preceding the date of the publication of the roll. The roll is generally published in the first week of October before the general elections are held and the general elections are held under section 22 in the month of January or February as the Commissioner may think fit. Therefore, the first day of April next preceding would be about 10 or 11 months prior to the date of the elections and then one year prior to such first of April would mean practically that he should be residing in the city of Bombay or using a dwelling for the purpose of sleeping for a period of about 21 or 22 months before the date of the elections. Under the Act as it stands now, where there is a qualification of paying rent, what is required is that the person

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entitled to be enrolled as a voter must be occupying premises on the first day of April next preceding. This is what is found in section 11, subsection (2), of the Act. It says :—

“and has, on the first day of April next preceding the date of publication of the electoral roll, occupied as owner or part owner or tenant.....”

That is, if he was a tenant on the first day of April and continued to be a tenant up to the date of the publication of the roll and later on, that was considered to be quite adequate. Now it will be necessary that he must be using a dwelling for the purpose of sleeping for a period of one year prior to that, that is, more than 18 months prior to the date of the publication of the roll. What I submit is that while it is necessary that there should be residence for some considerable time, the period mentioned here is too long and a period of about a year or more than a year would be quite adequate. If six months' residence before the first day of April next preceding the date of publication of the roll is put in, it will mean that he will have been residing in the city of Bombay on the date of the publication of the roll for a period of more than a year. That will be quite adequate. Eighteen months is too long a period. When in the past the tenancy was not required to be for more than six months, why should it be necessary that the residence should be required for a period of more than eighteen months! Twelve months' period will be quite adequate. This is a reasonable thing and I hope it will be accepted by Government. With these words, I commend my amendment for the acceptance of the House.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I support the amendment moved by my honourable friend Mr. Joshi. One year is really a long period and this suggestion of my honourable friend is quite sound. Six months I do not think would make any difference and I hope the Honourable the Minister will accept it.

The Honourable Mr. L. M. PATIL: Sir, I oppose the amendment moved by my honourable friend Mr. Joshi. It is deliberately provided in the Bill that a man must reside in the city of Bombay for eighteen months before the date of the publication of the roll. In a city like Bombay it is necessary that the period of residence should be what is provided in the Bill, because the population of Bombay is floating, it is very unsteady, people are coming and going out of Bombay for various reasons, and so, those who come and stay only for some months should not be allowed to have the right to vote. The intention is that only those persons who are staying for a considerably long time in the city and thus acquire some stake in the life of the city should be entitled to vote. If we do not provide this period, many persons, simply because they happen to stay for a certain period of time in the city, will get the right to vote and it will be also difficult to enrol the names of only those persons who are the proper residents of the city.

Mr. S. C. JOSHI : Sir, I am also in entire agreement with the principle enunciated by the Honourable Minister. I do not wish that floating population or everybody who simply comes to Bombay and has no stake here, should be entitled to a vote, but there must be a limit and I have also put in some limit. That limit should be a reasonable limit and the question is, what would be a reasonable limit? According to the Honourable Minister, the reasonable limit is of eighteen months, but my submission is that it would be of twelve months and that it will be quite sufficient. According to the amendment which I have moved, it will be 12 months' residence on the date of the publication of the roll, and nearly 21 or 22 months on the date of the election. I expected that this would be considered to be reasonable by Government. I am sorry that Government does not think that it is reasonable. I hope that the House will consider it to be reasonable.

6 p.m. Amendment put, and negatived.

Clause 8 ordered to stand part of the Bill.

Clause 9 (*Amendment of section 14 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 10 (*Amendment of section 16 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 11 (*Amendment of section 19 of Bom. III of 1888*):

(1) In section 19 of the said Act—

(a) In sub-section (4), for the words beginning with the words "whether such persons" and ending with the words "or land", the following shall be substituted namely:—

" Provided that where such person is—

(i) a company, the name of the Secretary or manager of the company.

(ii) a firm, the names of all the partners of such firm, registered under the Indian Partnership Act, 1932.

(iii) any other association or body of individuals, the name of the individual member of such association or body of individuals authorised by such association or body of individuals, or

(iv) an undivided Hindu family, the names of all adult coparceners of such family, shall be entered in such lists against the names of such company, firm, association, body of individuals or family, as the case may be."

(b) For sub-section (5), the following shall be inserted, namely:—

"(5) The Commissioner shall, before preparing the list, by notice in writing, call upon every owner of a building to furnish him with a list of all tenants who resided in or occupied such building during the qualifying period referred to in section 11.

(5A) The Commissioner may also call upon by notice in writing any occupier of any building or other person to furnish such information as may be prescribed by rules made under this section.

(5B) Every person to whom a notice has been issued under sub-section (5) or (5A) shall furnish full and true information within fifteen days from the date of receipt of notice.

(5C) The Commissioner shall then verify and scrutinise the particulars furnished under sub-sections (5) and (5A) by a house to house enquiry and by taking such other steps as may be prescribed by rules made under this section."

(c) In sub-section (15), after the word "dead" the words "or not qualified to be enrolled" shall be inserted.

(d) In sub-section (19) the words, figure and brackets beginning with the words, "But this shall" and ending with the words "so retained" shall be deleted.

(e) Sub-section (21) shall be deleted.

(f) After sub-section (22) the following shall be inserted, namely:—

“(23) Subject to the provisions of the fore-going sub-sections, the Corporation with the sanction of the Provincial Government may make rules for the preparation and revision of the lists of persons qualified to vote.”

(2) The provisions of this section shall apply to the first general election to be held after the first day of January 1942 and for all subsequent elections.

The Honourable the PRESIDENT: There are many amendments to clause 11. Amendment No. 3 stands in the name of the honourable member Mr. Karanjia.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I move:

“In clause 11 of the Bill the sub-clause (a) (ii) be deleted.”

Question proposed.

Mr. B. N. KARANJIA: My reasons are that in clause 11, sub-clause (a) (ii) it is provided that all the partners of a firm, registered under the Indian Partnership Act, should have the right of vote, whereas in the case of a joint stock company the secretary or manager should have the right to vote. In a private firm all the partners are given the right to vote but in a joint stock company that right is given only to one man, either the secretary or the manager. I do not see any reason why a discrimination should be made between private companies and joint stock companies. In the case of a private firm all the remotest relations are made partners in order to avoid the payment of income-tax, whereas in a joint stock company the directors are limited. Therefore, I say that only one member of a private firm registered under the Indian Partnership Act should be allowed to vote and not the other partners.

The Honourable the PRESIDENT: As a lawyer, I may tell the honourable member that the result of the deletion of that sub-clause will be that there will be no vote at all for a private firm.

Mr. B. N. KARANJIA: I desire that only one partner of a firm should be allowed to vote. If you like, it may be modified.

The Honourable the PRESIDENT: In order to save time, the honourable member may withdraw this amendment and move another amendment.

Mr. B. N. KARANJIA: I beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. T. M. GUIDO: The Honourable Minister may make a statement, so that the honourable member Mr. Karanjia may not have the necessity of moving an amendment.

The Honourable the PRESIDENT: I am going to see what his amendment is.

Mr. B. N. KARANJIA: Sir, I shall move the following amendment:

"In clause 11 (a) (ii) delete the words "the names of all partners of such firm, registered under Indian Partnership Act, 1932" and substitute instead the words 'a partner authorised by such firm'."

Question proposed.

Mr. B. N. KARANJIA: Sir, I know how these firms are carrying on their business. In order to avoid income-tax, they include even a child as partner. In the case of a joint stock company where there is no room for such evasion of income-tax, only one vote is given to the manager or the secretary. I think it is only fair that only one member of a firm registered under the Indian Partnership Act should be allowed to vote.

Professor SOHRAB R. DAVAR (Bombay City cum Bombay Suburban District): The honourable member Mr. Karanjia's objection seems to be this. Suppose there are 10 members of a private firm. Out of them, 9 will be residing out of Bombay, but at the time of voting all these 9 partners who are outsiders will come and vote. All these non-resident partners become voters.

The Honourable the PRESIDENT: Non-resident partners will have a vote?

Professor SOHRAB R. DAVAR: Yes.

The Honourable the PRESIDENT: That can be done by a single addition—by inserting "non-resident" before "partners".

Professor SOHRAB R. DAVAR: That will do.

Mr. SHANTILAL H. SHAH: The objection seems to be that non-resident partners will be getting a vote. The point to be considered is, if some town duties are paid by a firm, the persons who jointly own such firm—

The Honourable the PRESIDENT: Honourable members have pointed out the difficulty. It is for Government to accept or not to accept. The matter is still under consideration.

The Honourable Mr. L. M. PATIL: We are considering it. In the meantime, will it not be possible to take up the other clauses?

The Honourable the PRESIDENT: I cannot pass on to the other clauses. I will take up the other amendments to this clause.

The Honourable Minister wants time to consider. It seems that the point is not free from doubt. In the meantime, we may take up the other amendments. The honourable member Mr. Karanjia's amendment relates to joint Hindu families. That raises the same principle as this. Therefore, we will pass over and take up the honourable member Professor Davar's amendment.

Professor SOHRAB B. DAVAR : I would await the decision on this amendment.

The Honourable the PRESIDENT : All right.

The Honourable Mr. L. M. PATIL : Sir, I oppose the amendment moved by the honourable member Mr. Karanjia, after due consideration. If we accept the amendment, I think it will go against the principle adopted in clause (a). There we have provided that any person who occupies business premises will be entitled to vote. He may stay in the city of Bombay or he may not, but if, during the qualifying period, he occupies business premises the annual rateable value of which is not less than Rs. 60, he will get a vote. There is analogy between a person who occupies business premises and a member of a firm or a member of an undivided Hindu family. The firm pays taxes to the Corporation and all the partners have a share in the contribution that the firm makes to the Corporation. The same is the case with the coparceners of a Hindu family. The Hindu family jointly pays—

The Honourable the PRESIDENT : I should not like to interrupt the Honourable Minister, but let us take the items one by one. Let him confine himself to the partners for the present.

The Honourable Mr. L. M. PATIL : If you give the right to a man who keeps business premises, it will be reasonable and logical to give the same right to all the partners of a firm who have business premises or taxation qualification. So, I oppose the amendment.

Mr. B. N. KARANJIA (Bombay City cum Bombay Suburban District) : Sir, the Honourable Minister has absolutely misunderstood me. My point is this. Take the case of the Tata Iron and Steel Company, or any other Company which has a capital of five crores of rupees and a large number of shareholders. That company has the right of only one vote, while a small firm dealing in groceries or medicines etc., if it has 15 partners, all the 15 partners will have one vote each. On this analogy I say one firm should give only one vote. The limited company pays much more to the Corporation than the private firms. A limited company may have a capital of five crores while these private firms may have very little capital. It is necessary that a limited company should have the same privilege of representation.

Mr. SHANTILAL H. SHAH : Sir, with your permission, I will just explain. If the limited companies are to be treated in the same way as the private firms, then all the shareholders of the Tata Steels and of the Associated Cement Merger will be entitled to vote and, Bombay being the home of so many companies, I am afraid half of India will get votes. Therefore, the analogy of a limited company will not apply. The other point is that in law a limited company is a body corporate and as such is a legal entity, whereas a firm is not a legal entity. A firm is composed of various persons who go to make up the firm.

The Honourable the PRESIDENT : I was going to say the same thing. In law a firm is not a legal entity, but the limited company is one legal entity.

Mr. SHANTILAL H. SHAH : In law the limited company is a person, but the firm means a body of several persons. The only question that remains is whether the non-resident partners should be given a vote. In that respect, if the honourable member Mr. Karanjia's amendment is accepted, there will be another difficulty. Suppose there is a firm of 10 persons, 9 residing in Bombay and 1 residing in Calcutta. If a partner residing outside Bombay is not allowed to vote, then it will defeat the intention of the Act.

Amendment put, and negatived.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District) : Sir, I beg to move :

" In clause 11 of the Bill the sub-clause (a) (iv) be deleted."

Question proposed.

Mr. B. N. KARANJIA : My arguments are, Sir, that supposing an undivided Hindu family consists of 20 members and supposing 16 of them stay in Nadiad, would they come also under undivided Hindu family and vote as coparceners of such families ? We do not want that because when the adult franchise comes every man or woman in the City would come and vote. Why should this clause be there and again not only do they enhance the voting power of such families but they have also said " against the names of such company, firm, association, body of individuals or family " so that they can multiply in any number according to the Bill which they are going to have. Sir, is it fair and proper ? My main point is, supposing that some members of the joint Hindu family living outside the City also have a right to vote. Therefore, I want this sub-clause to be deleted.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District) : Sir, I support the amendment and I want again to appeal to the Honourable Mr. Patil and ask if it is the intention to give Hindu voters undue weightage. There is no question of taxation here because the Hindu joint family men are living in one chawl, say father with 4 or 5 sons and some of the sons also live outside the City and occasionally visit the family. Are they going to be all entered whether resident or non-resident and entitled to vote ? That is the anomaly of the whole show. Those who stay in Bombay will have one vote, and also those who are outsiders—because they are a joint Hindu family, its members will also be allowed to vote. I think, this undoubtedly gives undue and heavy weightage to Hindu voters. This clause will not give any advantage to a Mahomedan or a Parsee. We are not a joint family, nor are Mahomedans. We are thus cut out and the Hindus are given undue advantage. I want to ask the Honourable Mr. Patil : Is it the intention of the Government that the Hindus be given undue weightage ? If it is so, please pass this clause.

Mr. S. C. JOSHI: Sir, I think there is some misconception and we would like to have the point made somewhat clear. The point of importance is this: Whether an undivided Hindu family would be a person entitled to be enrolled as only when it is owning property or in other capacity also or merely as a family? To my mind it appears that it is only as owners of property that a joint Hindu family will be entitled to be enrolled as a voter and therefore the question which has confronted my honourable friend Professor Davar would not arise at all. It would arise in the case of those joint Hindu families in Bombay who own property in the City of Bombay and the property is paying assessment. Now in such cases if there are several coparceners who are owning property then in such cases, as owners of property they are entitled to give a vote and they should be given the right. That right does not depend as in the case of the firm. Now having accepted that principle, that partners of the firm working in Bombay would be entitled to give a vote notwithstanding that they are not residents of Bombay but they have got some stake in the City of Bombay, of course, it would be but

6-30 p.m. fair to give the same privilege to joint owners of certain immoveable properties paying assessment to the Municipality. It may be possible that the property is too small and the total number of coparceners is so large that each coparcener would be paying a very small amount of tax and yet he would be entitled to a vote, because every person who pays some kind of assessment in respect of the land that he owns or the premises that he owns is entitled to vote, irrespective of the amount of the taxes that he pays. Therefore, any person who pays a tax to the Municipality would be entitled to vote, whether he resides in Bombay or not, and that is the principle underlying this. Therefore, there would be no need to entertain the apprehensions expressed by the honourable member Professor Davar. Of course the joint family spoken of here is a joint family having a house or other immoveable property in the city of Bombay.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, I do not understand why, having accepted the first part, that is, clause 11 (1) (a) proviso (ii), wherein we have got firms, with members living outside and with business premises rented at Rs. 60 or something like that—we have a provision like that—we cannot accept the other part. Suppose there is a joint Hindu family and the head of the family stays here, and he pays rent for his dwelling to the extent of Rs. 60 or whatever rent is fixed for that in (a) (ii), when why should the other coparceners be deprived of the right to vote? A joint Hindu family is in the nature of a firm carrying on business. The idea of a joint Hindu family is that everything that is acquired by the coparceners anywhere either in this city or outside goes into the common stock. So, when we accept one point i.e. about firms, I think we shall have to accept this as well. Of course, I am not afraid of the domination of the Hindu community or anything like that. We heard the speeches on the principle of the Bill at the time of the first reading; the minorities like Parsee community need not be afraid of their fate with adult franchise,

[Mr. N. D. Deodhekar]

because so many Parsis get in with the help of Hindu votes ; we Hindus are not communal minded ; merits count ; and so there would be no difficulty that way. (*An Honourable Member* : Multiply to 10 lakhs.) I am not for multiplying. I am for reasonably limiting the number of voters for the present but I accept the principle, that is why I supported my friend Mr. Karanjia's amendment. My point in supporting the amendment was that if you want to remove the qualification of those persons who reside outside and do not want to give a vote to them, it is quite all right, because you have got adult franchise here. In the case of firms you have brought in outside persons who do not pay anything to the Corporation. In their case you do not talk of taxation. Now you are talking of taxation in the case of joint Hindu family. You did bring in persons who stay outside and do nothing but take away money from Bombay. Then why object to Hindu coparceners ?

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : Sir, by agreeing, as the House has just done, that all the members of a firm are entitled to vote, the House has accepted the principle that a person who resides out of Bombay is entitled to vote if he pays taxes to the municipality. The effect of the amendment will be that if I am a partner with a Parsi gentleman, as in fact I am, then I come under sub-clause (ii), and I shall have the right to vote though I stay outside Bombay. But if I am a member of a joint Hindu family and stay outside Bombay, then I shall lose the right to vote. It means in effect that if I am a partner with a non-Hindu gentleman and stay outside Bombay, then I get the right to vote, but if I am a member of a joint Hindu family and reside outside Bombay, then I shall not have that right. Having once accepted the principle that persons staying outside Bombay but contributing to the municipal coffers should have the right to vote, I do not understand why the House should now go back upon it. I do not see any difference between partners in a firm and members of a joint Hindu family. Having already accepted the principle in the one case, we ought not to go behind it in the other. It must be applied to a firm as well as to a joint Hindu family, and no distinction ought to be made between the two.

The Honourable Mr. L. M. PATIL : Sir, the intention of this amendment is similar to that of the amendment which was just lost. I do not think in the case of an undivided Hindu family, as the honourable member Professor Davar feels, if one of the members of the family stays in Bombay, all the other coparceners like sons and brothers who are adults and staying outside would be entitled to a vote. An undivided Hindu family is considered a person and, therefore, it will be a sort of a firm and will have to carry on some business or will have to possess the taxation qualification. A Hindu joint family cannot get the right to vote by the qualification of the requisite residence. So, out of the three qualifications prescribed in clause 8, either the business premises, or the taxation qualification, will have to be fulfilled by a joint Hindu family, so that all the coparceners should be entitled to vote.

Mr. B. N. KARANJIA : Sir, I think all the previous speakers, including the Honourable Minister, are labouring under a misapprehension. Supposing, a joint Hindu family has got no residence qualification, I mean, no property, but they have certain securities say to the tune of Rs. 1 lakh, and even if they are staying out of Bombay and have no property, are they going to have a vote ?

Honourable MEMBERS : No, no.

Mr. B. N. KARANJIA : But you have said here that he is entitled. See clause 8, new sub-section 11 (2) (b).

The Honourable Mr. L. M. PATIL : The honourable member himself is under a misapprehension.

Mr. B. N. KARANJIA : Sir, I am not at all under a misapprehension ; the majority wants to crush the minorities. I am certain about that. But, Sir, we must express our views, though we are in a minority.

The Honourable Mr. L. M. PATIL : Sir, if you read clause 8, it will be found that a person shall not be entitled to be enrolled in the municipal election roll as a voter of any ward, unless such person has on the 30th day of September attained the age of 21 and has the requisite residence, business premises or taxation qualification. So, every person will have to—

Mr. B. N. KARANJIA : Then why should this clause be there ?

The Honourable Mr. L. M. PATIL : It is necessary that every person must have one of these qualifications. Now, an undivided Hindu family is defined as a person—

Mr. B. N. KARANJIA : As one person ?

The Honourable Mr. L. M. PATIL : As one person. Such person can have only two qualifications. It cannot have the qualification of requisite residence. It shall have the qualification either of business premises, or the taxation. And if a joint Hindu family possesses any of these two qualifications, then only the coparceners will be entitled to vote. So the case of a Hindu joint family is similar to a firm. In the case of a firm the partners are entitled to vote ; similarly the coparceners should also be entitled to vote. However, to make this clear, a suitable amendment will be moved and accepted by Government.

Amendment put, and negatived.

Professor SOHRAB R. DAVAR: Sir, I beg to move:—

For clause 11 (1) (d) substitute the following—

“(d) In sub-section (19) for the words, figures, and brackets beginning with the words “but this shall” and ending with the words “so retained” the following words, figures and brackets shall be substituted namely:

“But this shall not be deemed to prevent the names of secretaries or managers of companies, which have been entered in the list under clause (i) of the proviso to sub-section (4) from being retained on the list for one ward each, in addition to the names of such companies, if such secretaries or managers are entitled on their own separate account to have their names so entered.”

Question proposed.

Professor SOHRAB R. DAVAR: Sir, I want to remove an anomaly by means of this amendment. The effect of the amendment which my honourable friend Mr. Shantilal Shah wants to move will be that a large number of companies whose secretaries or managers live within the limits of the city of Bombay will be disqualified. Under clause 11, clause (i) of proviso to sub-section (4) of section 19, the name of the secretary or manager is to be placed on the electoral roll. If that secretary or manager happens to be the only secretary or manager, and if both of them happen to be resident within the city limits, both of them will vote in their personal capacity and the result will be that the company will have no vote. That is going to be the effect of Mr. Shantilal's amendment, which seeks to prevent individuals having plurality of votes. But if that secretary or manager happens to be living in Bandra, for instance, he can vote. That will be the effect of this particular provision. I want to change that; I want to provide that the secretaries or managers shall be entitled to have plurality of votes if they are entitled on their own separate account to have their names entered on the roll. There should be no objection to this suggestion being accepted, because this will meet the honourable member Mr. Shantilal's point also. Otherwise, the anomaly that I have described will be created. You do not want that; you do not want the company paying tax to go without a vote. It is a legal entity; it has authorised its secretary or manager to go and vote on its behalf. Formerly, anyone of the directors could go and vote on behalf of a company, or even a clerk duly authorised could do it. The practice was that the name of the person so authorised used to be communicated to the Commissioner; it did not matter what his capacity was; he could go and vote on behalf of the company. But now it is restricted to the secretary or manager. If they are resident in Bombay, naturally they will not come in. So, if these companies have not got a manager or secretary residing outside Bombay, they would lose their vote. I would like my honourable friend the Minister in charge of the Bill to consult his legal advisers and remove this anomaly, because, otherwise the whole basis of your taxation franchise, of which you naturally think so much, will be done away with. You are depriving the biggest tax-payers of a vote simply for the accident of not having a manager or secretary residing outside Bombay. Therefore, if you accept my amendment, you will bring them in without injuring your taxation franchise. That is my point.

Mr. S. C. JOSHI : Sir, I rise to support this amendment. There is considerable force in the argument advanced by my honourable friend Professor Davar. The position has been rendered very anomalous by reason of the amendment that has been carried out by the Legislative Assembly. What is the amendment made by the Assembly in this clause ? The original clause was " a company, the name of any individual member of such company authorised in this behalf. " That has been changed to " a company, the name of the secretary or manager of the company. " The result has been that the discretion left to a limited company to authorise a person on its behalf for the purpose of this voting, a person who is not already on the voting list, is lost, so that the company, being a person in the eye of the law and being entitled to greater status than the status given either to a joint Hindu family or an ordinary partnership is deprived of its right. If the company was a company whose secretary or manager was a person living in Bombay, the company was in a position to authorise any of its members not resident in Bombay and such member could vote. Now by reason of restricting, in the case of limited or registered company, the vote only to the secretary or manager, an anomalous position will arise. Thus, if unfortunately in the case of that company the manager or secretary happens to be a person living in Bombay and entitled to a vote on his personal account or on account of some other person, then in such cases the company will be deprived of that right. That is most unfair. In fact, in the case of a limited company even if a greater right had been given it would not have been unfair. When you are giving to every non-resident coparcener of a joint Hindu family owning a small house or a small piece of land in the city of Bombay a right to vote, you deprive a limited company of a right to vote where the company's interest is really at stake. It would be necessary either to accept the amendment which my honourable friend Professor Davar has moved or to have another amendment allowing the original words of the clause to be substituted there. If this amendment is thought to be unnecessary, then at least this House should be allowed an opportunity of moving a further amendment in order to reinstate the original words for the words that have been substituted by the Legislative Assembly. The implication of this change is very serious and I think that this deserves careful consideration of the Government. With these words, I support this amendment.

Mr. B. N. KARANJIA (Bombay City and Bombay Suburban District) : Sir, I also support the amendment moved by my honourable friend Professor Davar. It is an absolutely reasonable suggestion and I appeal to the Honourable Minister in charge at least to yield on one point which is in every way a reasonable one. Whatever has been done by the Legislative Assembly in this case is absolutely wrong and therefore I hope the Honourable Minister will accept the amendment moved by my honourable friend Professor Davar.

Dr. G. S. MAHAJANI (Poona *cum* Satara) : Sir, I had decided not to speak on this question because I am not much acquainted with affairs of

[Dr. G. S. Mahajani]

this kind, but the point that has been pressed is so obvious and certain principles of justice are involved in this. I shall therefore try to clarify the position by putting it in this way. It is putting an alternative before the company "either you lose your right of vote or you must appoint both the secretary and the manager from outside. None of them must be resident in the city." Since that alternative is not a fair alternative to be put before the company, I wish to suggest that this amendment of the honourable member Professor Davar should be acceptable to Government.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : There is some justification as to why this amendment has been made in the Bill restricting the right of voting to the manager or the secretary of a company.

The Honourable the PRESIDENT : I have been disturbed for the last half an hour to such an extent that I have not been able to follow the speeches of honourable members. Conversations have been going on, sometimes this side and sometimes that side, and sometimes simultaneously. I find it very difficult to follow the speeches of honourable members. If they want to talk, they can do so in a low tone or go near each other or go outside, so that I may be able to follow the speeches. As the distance is very short, the noise is very great. I hope the honourable members will allow me to listen to the speeches.

Mr. SHANTILAL H. SHAH : It is necessary to restrict the vote given to a company either to the secretary or to the manager. Otherwise we shall be reverting to the old position as it now exists. Sub-clause (19) of clause 19 runs as follows :

"But this shall not be deemed to prevent the names of individual members of companies, firms, undivided families or other associations or bodies, or of persons who are trustees, which have been separately entered in the list under sub-section (5), from being retained on the list for one ward each, in addition to the names of the companies, firms, undivided families or other associations or bodies of which they are, respectively, members, or in addition to the names of the trustees, as the case may be, if such individuals or persons are entitled on their own separate account to have their names so retained."

The effect of the deletion of the sub-clause proposed in the Bill will be that plural voting will come into existence. If a person has got two or three houses or has got a business qualification or a taxation qualification, he would be entitled to vote in several places.

Mr. S. C. JOSHI : Sir, it is not intended to delete this clause as was suggested by the honourable member Mr. Shah, but something else is to be substituted for the present wording. What has been done now is to delete the words "the names of all partners of such firm, registered under the Indian Partnership Act, 1932" and substitute in its place the words "a partner authorised by such firm." The portion quoted by the honourable member from sub-section (19) of section 19 is proposed

[Mr. S. C. Joshi]

to be deleted by this amending Bill. There is an amendment in sub-clause (I) (d) to the following effect :

" In sub-section (19) the words, the figure and brackets beginning with the words ' But this shall ' and ending with the words ' so retained ' shall be deleted."

The amendment moved by the honourable member Mr. Karanjia wants to substitute some other words for the existing words in the sub-clause. In the case of companies it will be restricted to the secretary or the manager. So also in the case of private firms it will be restricted to the partner authorised by such firm.

Mr. SHANTILAL H. SHAH : Sir, with your permission, if you will allow me to move an amendment, it may end the present controversy. The amendment will take us back to the position as it was in the Assembly. I move—

In clause 11 (1) (a), in clause (I) of the proviso delete the words " the name of the Secretary or manager of the company " and substitute instead the words " the name of any individual member of such company authorised in that behalf."

Question proposed.

The Honourable the PRESIDENT : I think it takes us back to what was in the original Bill before the Assembly.

Professor SOHRAB R. DAVAR : There, as it was pointed out by me, it would mean that the companies will have to appoint one of their members living outside Bombay. That will be the result. A man cannot vote twice, once in his own right and then as a representative.

The Honourable the PRESIDENT : I see your point, but this amendment will lessen the difficulty. Is the
7 p.m. honourable member withdrawing his amendment ?

Professor SOHRAB R. DAVAR : Sir, I beg leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

The Honourable the PRESIDENT : I will now put the honourable member Mr. Shantilal's amendment.

Amendment put, and agreed to.

Mr. T. M. GUIDO : Sir, I beg to move :

In clause 4 of the proviso to section 11 (I) (a) after the words " undivided Hindu family " the words " possessing the requisite business premises or taxation qualifications " be inserted.

Question proposed.

Mr. T. M. GUIDO : Sir, the object of my moving this amendment is to clear any doubts and fears that were expressed by Professor Davar and Mr. Karanjia that non-resident members of an undivided Hindu family would have a right to vote, although they may not have any taxation qualification or business premises qualifications.

With these words, I commend my amendment to the House.

Mr. S. C. JOSHI : Sir, I think it is absolutely unnecessary. The matter is absolutely clear. Then where are these words to be put in ? I will read clause 11 of the Bill which runs as follows :

" 11. (1) In section 19 of the said Act—

(a) In sub-section (4), for the words beginning with the words 'whether such persons' and ending with the words 'or land', the following shall be substituted namely : "

Now what are these previous words ? I am reading now sub-section (4) of section 19 :

" In preparing the ward lists, the Commissioner shall enter therein the names of the persons who are entitled to be enrolled under the provisions of sub-section (2) of section 11."

And those persons are persons mentioned there who possess the requisite qualification and therefore it is not necessary to repeat it and there is no doubt about it. If you insert these words here it will mean that in the case of a company also it will be necessary to make similar additions. When we are not mentioning it in the case of the company and in the case of the firm and other associations and body of individuals, where is the need of mentioning it in the case of the undivided Hindu family ? I feel there is no doubt and there is no need for the amendment that has been moved by my honourable friend, Mr. Guido.

Mr. N. D. DEODHEKAR : Sir, if it is not withdrawn, I will offer a few remarks about it. To get this amendment accepted now would look simply ridiculous, because when some time back we went on requesting Government for this, it was pointed out by the Minister that section 8 covered all these points and our amendment was rejected. Now within 5 or 10 minutes to bring this same rejected amendment which is redundant, as will appear from the explanation of the Minister, makes a poor show, and I request that it should be withdrawn.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District) : Sir, with great respect to my friends Messrs. Joshi and Deodhekar, I beg to differ from them. Here when we come to (4), it simply says, "a member of an undivided Hindu family" which means, that all the adult members of an undivided Hindu family can be put in, but here in the amendment the restriction reserved is that the joint Hindu family as such must have either business qualification or taxation qualification in order to come in on the roll. Now this taxation qualification has been defined by the Act as that of holding immoveable properties. Thus, if the amendment is passed, a joint Hindu

[Prof. Sohrab R. Davar]

family which holds immovable property or which has rented business premises, only come under this clause, whereas the rest of the Hindus who are resident in our town, whether they are joint or separate, will come in only once in the adult list. I think this will answer the difficulty which I was showing and will obviate the multiplication of the Hindu voters. I would urge the Honourable Mr. Patil to move it as it is not going to do any harm and it will carry out the intention I have in mind, viz., prevention of unnecessary duplication of voters. [Interruption.]

The Honourable Mr. L. M. PATIL: Sir, since there is some doubt regarding the legal position, I think there is no harm if this amendment is carried. (*Hear, hear.*) It will make the position more clear and anyway it will not make matters worse. So, I accept the amendment.

Amendment put, and agreed to.

Mr. SHANTILAL H. SHAH: Sir, I beg to move:

In clause 11, sub-clause (1), for clause (e) substitute the following, namely:—

"(e) For sub-section (21) the following shall be substituted, namely:—

"(21) The Commissioner shall not enter the name of any individual more than once in any ward list notwithstanding the fact that such individual is entitled to have his name entered in such list in more than one capacity or possesses more than one of the requisite qualifications referred to in section 11." "

Question proposed.

Mr. SHANTILAL H. SHAH: The intention of this amendment, Sir, is to prevent plural voting. As the honourable member Mr. Stones told me this morning, there was a time when between the Sassoons and the Currimbhoy's they could almost command one seat. He himself had about 60 votes in addition to his own personal vote. With other franchise, if votes are to be multiplied in this way, I do not know what it will lead to.

Mr. S. C. JOSHI: Sir, I rise to support this amendment. I think that the matter was clear as mentioned in sub-section (19) of section 19 itself. It says:

"The Commissioner shall not retain the name of one person in more than one ward list."

The principle is that the greater includes the less. When the Commissioner is not entitled even to retain the name of the same man in two different wards, it necessarily follows that he cannot retain the name of the same person more than once in the same ward. However, it is better that the matter should be made clear, and I am in favour of it.

But I would just ask the indulgence of the House to see whether the word "individual" as mentioned here is appropriate, or the word

[Mr. S. C. Joshi]

"person" would be more appropriate. Of course, there is a distinction, and I have carefully studied the distinction between "individual" and "person". I for one, after careful study, feel that the word "person" would be appropriate instead of the word "individual". I feel that "person" will include an individual as well as a firm, an individual member of a firm, and so on. In sub-section (19) of section 19 itself the word used is "person". It says "The Commissioner shall not retain the name of one person in more than one ward list. If any person whose name has been so entered—." That may be in any capacity, it may be in a representative capacity, it may be in his individual capacity, it does not matter. What will happen is this. If the word "individual" is retained in sub-section (21) that is proposed to be now added which says "The Commissioner shall not enter the name of any individual more than once in any ward list—", it means that the Commissioner shall enter the name of the same person more than once in any ward list. It might follow that, if the Commissioner is not entitled to enter the name of the same individual more than once, then "individual" being different from "person", he shall enter the name of the same person more than once in the ward list. Therefore, in order to retain the same phraseology as is used in sub-section (19), it would, I think, be better to have the word "person" substituted in the two places where the word "individual" occurs in the proposed amendment. That is what I feel, and I would like the matter to be made clear. Of course, if the Honourable Minister feels that "individual" is better, I have no objection, but "person" would, I think, be better.

Mr. SHANTILAL H. SHAH : Sir, the honourable member is perfectly aware that there is a difference between the word "person" and the word "individual". The word "person" is of wider import and would include an incorporated company or any body of persons whether incorporated or not. Therefore, when the right to vote is given, the word "person" has been used, but when the actual voter has to be put on the list, the word "individual" has been used advisedly.

The Honourable Mr. L. M. PATIL : I accept the amendment.

Amendment put, and agreed to.

Mr. SHANTILAL H. SHAH : Sir, I beg to move :

"In clause 11 (1) (f) in new sub-section (23), for the word 'may' substitute the word 'shall'."

Question proposed.

Mr. SHANTILAL H. SHAH : Sir, a doubt was raised in the Assembly that if the word "may" is retained, it will mean that the Corporation "may" make rules, and that therefore it may not. Therefore, the idea in putting the word "shall" is that it must.

The Honourable Mr. L. M. PATIL : Sir, I accept the amendment.

Amendment put, and agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

Clause 12 (*Amendment of section 22 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 13 (*Amendment of section 28 of Bom. III of 1888*):

(1) In section 28 of the said Act, for clauses (d) and (e) the following shall be substituted, namely :—

“(d) when the name in a ward roll is that of a company, firm, association, body of individuals or an undivided Hindu family, all the persons whose names are entered against such company, firm, association, body of individuals or undivided Hindu family in the ward roll shall be entitled to vote.”

(2) The provisions of sub-section (1) shall come into force for the purposes of the general elections to be held after the first day of January 1942 and for all subsequent elections.

Mr. B. N. KARANJIA : Sir, I beg to move :

“In clause 13 of the Bill sub-clause (d) be deleted.”

Mr. SHANTILAL H. SHAH : Sir, the effect of this amendment would be as follows :

“In section 28 of the said Act, for clauses (d) and (e) the following shall be substituted, namely :—”

And then a blank.

The Honourable the PRESIDENT : I wish to point out to the honourable member Mr. Karanjia that, if, as he seeks to do, clause (d) is deleted, then nothing shall be left to be substituted and the clause will read like this :

“13. (1) In section 28 of the said Act, for clauses (d) and (e) the following shall be substituted, namely :—”

And then nothing is there to be substituted, because, according to the honourable member's amendment he wants (d) to be deleted.

Mr. B. N. KARANJIA : Sir, I can move that clause 13 should be deleted.

The Honourable the PRESIDENT : The honourable member may oppose the whole clause.

Mr. B. N. KARANJIA : What I find, Sir, is that clause 13 is like an incubator for hatching voters. The proposed clause (d) says :

“When the name in a ward roll is that of a company, firm, association, body of individuals or an undivided Hindu family, all the persons whose names are entered against such company, firm, association, body of individuals or undivided Hindu family in the ward roll shall be entitled to vote.”

[Mr. B. N. Karanjia]

What is this ! This is nothing but an incubator for hatching voters ! And from the discussions that we have had on clause 11, I find that this clause is absolutely redundant, because clause 11 covers everything : adult franchise is there, there is provision for enfranchising firms, there is provision for enfranchising associations, in fact, that clause is very comprehensive. I do not understand why these associations and other private bodies which do not pay taxes should be brought in. That is why I oppose clause 13.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : Sir, I am afraid the honourable member is too late : the incubator has already started work and the chickens have been hatched ! What he perhaps wants to do now is to kill those chickens ! I am sure the honourable member is too kind-hearted to intend to do that.

Coming to this clause, it merely lays down that all the persons who are entitled to be voters by virtue of clauses 8 and 11 shall become voters, not from 1939 when the first election takes place, but from 1942. I do not think that my honourable friend wants that they should become voters from 1939. Nor, I believe, does he want that the plurality of votes which he voted against should by an indirect method be restored, as will happen if clause (d) is deleted.

Mr. S. C. JOSHI : That is not the correct position. The position is somewhat different. This is a purely consequential amendment which has become necessary now in view of the fact that we have amended clause 11 in such a way that now the names of the persons who are partners in a firm, the names of the secretaries and managers of companies, and the names of all the co-parceners in a joint Hindu family will automatically be included in the original list itself. The position now has completely changed. Originally, in the case of associations, firms and joint Hindu families, only their names were to be included in the list of voters ; and later on, it was open to the firms, the registered companies, and the joint Hindu families to inform the Assessor as to the person who would vote on their behalf ; or anybody holding a power of attorney was entitled to vote. That is not the position now. As I said, the position has completely changed. Therefore, this amendment becomes necessary. If the honourable member Mr. Karanjia will read old clause (e), he will find that intimation has got to be sent to the Assessor. That is no longer necessary. Therefore, the amendment is absolutely necessary. It is a purely consequential amendment.

The Honourable Mr. L. M. PATIL : Sir, by the amendment moved by my honourable friend Mr. Shantilal Shah, the position has become quite clear. No person will have two votes ; whether he is a representative of a company or association or firm, or a member of a joint Hindu family, he will have only one vote even if he has got two or three qualifications. Regarding Hindu families and firms, we have adopted the same provisions as were in the original Act ; we have not made any alterations.

[Mr. L. M. Patil]

The honourable member Professor Davar said that we were giving weightage to the Hindus. That is not so. If you read section 19 of the Act, you will see that the provision similar to that in clause 11 is still there under the Act. We have only changed the wording and given it a proper legal form. That is the only change we have made. We have not given any weightage, nor have we increased the number of voters of Hindus.

Mr. B. N. KARANJIA : Sir, I am quite satisfied with what the Honourable Minister has said, but I object to the words used by the honourable member Mr. Shah, because his amendment was not known to me. The amendment which he moved here was not known to us and therefore I said that the deletion should be made.

An Honourable MEMBER : Now you withdraw it ?

Mr. B. N. KARANJIA : Yes, I withdraw.

The Honourable the PRESIDENT : There is no amendment. The honourable member was only speaking against, and that has now been explained.

Clause 13 ordered to stand part of the Bill.

Clause 14 (*Deletion of section 35 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 15 (*Amendment of section 39 of Bom. III of 1888*):

In section 39 of the said Act,—

(1) in clause (a) of sub-section (1) the words beginning with "twelve shall" and ending with the words "and the remaining" shall be deleted and for the words "not being councillors resident in the City of Bombay" the words "whose names are entered in the election roll, but who are not councillors" shall be substituted.

(2) clause (b) of sub-section (1) and the explanation thereto shall be deleted.

(3) in sub-section (4), for sub-clauses (a) and (b) the following shall be substituted, namely:—

"(a) One-half of the members of the Schools Committee shall retire at noon on the first day of April every year.

(b) The members who shall retire one year after the Schools Committee is constituted under sub-section (1) (a) shall be selected by lot at such time previous to the first day of March immediately preceding and in such manner as the Chairman may determine.

(bb) During the succeeding years the members who shall retire under clause (a) shall be the members who were longest in office :

Provided that in the case of a member who has been re-elected the term of his office for the purposes of this clause shall be computed from the date of his re-election."

(4) in sub-sections (1-D) and (4) (c) the words "relating to the representation of communities" shall be deleted.

Khan Saheb A. A. KHAN (Central Division): Sir, I rise to move the amendment that stands in my name :

" In clause 15, section 39 (1) (a), the words ' twelve shall be Councillors, of whom ' shall be deleted, and the words beginning with ' not less than three shall be members of the intermediate classes ' and ending with the words ' and the remaining ' shall be deleted, and for the words ' not being Councillors resident in the City of Bombay ' the words ' whose names are entered in the electoral roll but who are not Councillors ' should be substituted."

Question proposed.

Khan Saheb A. A. KHAN: Sir, my object in moving this amendment is that under section 39 of the City of Bombay Municipal Act, the Schools Committee consists of 16 members. As the section stands, of these members 12 shall be councillors and of these 12 not less than 4 shall be Mahomedans, not less than 3 shall be members of the intermediate classes and at least 1 shall be a member of the scheduled classes if a member of the scheduled classes shall be a councillor. Government, by the amendment which they have brought in by clause 15, seek to get rid of this separate representation given to the other classes and I move that the representation to Mahomedans as given by the Act to the extent of 4 be retained. Only a fortnight ago when I spoke on the question of the optional clause in the Municipal Bill, I never thought that within a fortnight I would have the opportunity of once more speaking on the same question. When considering the clause I pointed out that although the clause provided for a decision by a majority of the Mahomedans in a locality, it was quite possible that Government might not pay any regard to the opinion of the majority of Mahomedans and might decide to introduce joint electorates in spite of and against the wishes of the majority of Mahomedans. Here in this Act we have a provision for representation to Mahomedans to the extent of 4. In the Primary-Education Bill which was passed by this House yesterday provision has been made for adequate representation for Mahomedans and the Honourable the Prime Minister in charge of Education clearly told us that the interests of the Mahomedans and other minorities would be considered and safeguarded and that Mahomedans would have representation on the school board. Here is a right which we have got and which we have been enjoying all the time. I do not see why Government want to take away that right. Therefore, I move this amendment.

Mr. MAHOMED AMIN WAZEER MOHOMAD TAMBE (Southern Division): Sir, I rise to support the amendment moved by my honourable friend Khan Saheb Khan. The rights given to the Muslims are being taken away through this Bill. I do not see any reason why this right which the Muslims possess should be taken away. The Muslims being a minority community do need such safeguards. Therefore, I support the amendment.

* Dr. P. G. SOLANKI : Sir, I rise to support the amendment moved by the honourable member Khan Saheb Khan. I do so on the ground of their language Urdu. If there is no Mussalman on the schools committee their interest will suffer as it did when there were no Muslim members on the Schools Committee. Therefore, instead of espousing the cause of the scheduled castes for whom a lot of assurance has been given by the Honourable Ministers of the Cabinet—

Mr. SHANTILAL H. SHAH : On a point of information. At the time of the first reading, the honourable member welcomed the proposed change in the constitution of the schools committee. At the second reading he is speaking against that proposal. Is this permissible ?

Mr. N. D. DEODHEKAR : He can revise his opinion.

Dr. P. G. SOLANKI : I have got my right to speak while the honourable member knows very well my general principle. I should not be understood to champion their cause because they are well able to do that themselves. Even though Mahomedans will be returned in good number, they have got their fear that the Congress would swamp the seats in the new elections and fewer Mahomedans would be returned. That fear must be removed by the Honourable Minister in his reply.

Khan Saheb MAHOMED IBRAHIM MAKAN (Northern Division) (*Addressed the House in Gujarati*) : Mr. President, Sir, I support from the bottom of my heart the amendment moved by my honourable friend Khan Saheb A. A. Khan. We are dissatisfied with the abolition of the present four seats on the Schools Committee of the Bombay City Municipal Corporation reserved for Mussalmans. At a time when great leaders of the country, Mahatma Gandhi and Mr. Mahomed Ali Jinnah, President of the All-India Muslim League, are striving to the utmost to establish Hindu-Muslim unity—I wish that God may crown them with success therein and pray that we should adopt such an attitude and that God may give us the time when all communities of the country would be united—it will produce discontent if the Congress Government were to bring forward and get passed in the Council on the strength of their majority such Bills which snatch away these four insignificant seats reserved for Mussalmans on the Schools Committee of the Municipal Corporation of Bombay. I commend for the acceptance of the Honourable Minister the amendment moved by my honourable friend Khan Saheb A. A. Khan and I hope he will do it with a broad mind, so that the Mussalman community may feel that the Congress Government has done justice to them.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) : Sir, I am very glad that the honourable member Dr. Solanki has seen the necessity of doing away with the reservation of seats for the scheduled castes on the schools committee. Having come to that happy frame of

* Speech not revised by the member.

[Mr. Shantilal H. Shah]

mind, I hope he will go a step further with us and have a schools committee without any communal bias.

The Honourable Mr. L. M. PATIL : Sir, I oppose the amendment of the honourable member Khan Saheb Khan. It is not necessary to have any reservation of seats for Mahomedans on the Schools Committee. The reservation of seats for Mahomedans and other backward communities was introduced by a Bill moved by Rao Bahadur Bole in 1932. Before 1932 there was no reservation of seats on the Schools Committee for any community. Even though there was no reservation, still the Mahomedans were able to get sufficient representation on this committee. That has been made clear by various speeches that were made by many members of the Council at the time when the Bill of Rao Bahadur Bole was under discussion.

Dr. P. G. SOLANKI : How many Mahomedan members spoke on that subject ? Only two or three.

The Honourable Mr. L. M. PATIL : So many. The honourable member Mr. Mahomed Suleman Cassum Mitha, who was from the City of Bombay, while speaking on that Bill, said :

"As far as my community is concerned, we do not want any reservation of seats, because as at present we have got five members of our community on the schools committee; and this will prove to the majority communities that if Mussalmans are well-treated, they do not want reserved seats for them."

Another Muslim member, Mr. Hoosenally Rahimtoola said :

"It is a fact that this Bill has been opposed by the Bombay Municipal Corporation and the opposition was led by a member of the backward community, a Muslim, my friend Mr. Dintimkar. The Bombay Municipality is the only municipality in the Province where we have not had so far any communal elections. The elections to the Bombay Municipal Corporation are on the joint electorates basis without reservation of seats. All the elections to the various committees of the Corporation are elections without reservation on communal basis. So far, in the Bombay Municipality, we have managed to do away with any statutory communal representation for any community. Generally it has happened that all communities have had their fair share or some share of representation on the Corporation and on the various committees of the Corporation."

So, these speeches of the Muslim members themselves show that there was never any reservation of seats for Mussalmans, and in spite of that, they had their fair share of representation. The Bombay Municipal Corporation also at that time protested against the provisions of the Bill. They sent a telegram while the Bill was being discussed, and not a single member of the Corporation was in favour of the Bill. There were so many Muslim members in the Corporation and they also said that they did not want reservation of seats. The Bill was moved by a nominated member, and it was not supported by the Government at that time. This is the history of the reservation of seats for Mussalmans on the Schools Committee. At least in the Bombay Corporation there should not be any reservation of seats for any community, because all the communities

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have been getting their due share of representation. Then, why unnecessarily reserve seats and give scope for communal differences ? I hope this explanation will satisfy the honourable member Khan Saheb Khan and he will withdraw his amendment.

Khan Saheb A. A. KHAN (Central Division): Sir, I am not satisfied with the explanation given. Mr. Mahomed Suleman Cassum Mitha might have had his own reasons for saying what he said and so also Mr. Hoosenali Rahimtoola might have had his own reasons. There were about 28 Mahomedan members on the old Legislative Council. Does the Honourable Minister suggest that the remaining 26 members also did not agree with the proposal to give representation to the Mahomedans ? I am not concerned very much with the fact that prior to the reservation being given 5 Mahomedans had been elected on the Schools Committee. The point is this: That was the year 1932. We are now living in the year 1938. We find that our rights are being encroached upon from time to time. And now, while we have been expressing our apprehensions you come forward with a proposal to take away a right which some years ago had been given to us. It might have been given properly or not, but the fact remains that that right was exercised by us all these years. Will the Honourable Minister state that the present Mahomedan members of the Bombay Corporation wish that representation on communal basis so far as they were concerned should be removed ? Will the Honourable Minister state that the Mahomedan members of the Lower House saw him with a request that the time had come when representation to them on communal basis should be removed ? If that was not the case, then merely because he thinks that the time has come for removing this communal taint from the school boards and from the legislatures, it does not necessarily follow that the others should also think that the time has come. In the old days it is possible that the Mahomedans might have confided in the good intentions of the Government. But at the present moment we have every reason to think that our rights have been encroached upon and will be encroached upon in future and this is one instance in point. What had been given to us in the past is now sought to be taken away from us and it is because of that that I have no intention of withdrawing the amendment. I know that it is going to be lost. It is a question of majority and the majority is on the other side. At the same time, why should I not raise my voice in protest ? After all, you are not the only audience. There is the country at large and the country will know how you are treating us. We shall go to the country and tell everything.

The Honourable Mr. L. M. PATIL: Sir, I have nothing to add.

Amendment put, and negatived.

* Dr. P. G. SOLANKI : Sir, I beg to move :

" In clause 15 add the following new sub-clause (5) at the end, namely :—

' (5) In clause (d) of sub-section (5) for the word ' eight ' the word ' six ' shall be substituted.' "

Question proposed.

Dr. P. G. SOLANKI : Sir, this is in connection with the quorum of the Schools Committee when the Committee meets. It has been invariably found that the quorum of 8 has become very unwieldy and unmanageable because the members on the Schools Committee are most of them very well-to-do people and when the hot season comes in many of them go away to the hills the result being that poor members like myself are in Bombay and it is very difficult to get such men in the large number of 8 and that is why I do say that it is high time that in order to facilitate the work of the Schools Committee regularly it is necessary to reduce the number from 8 to 6. The other statutory committees like the Standing Committee and the Improvements Committee, though they are more important and substantial than the Schools Committee, substantial in the sense that they make money while our Committee spends money, have got a quorum of 6, while we have one of 8.

The Honourable the PRESIDENT : What is the number of members of those committees ?

Dr. P. G. SOLANKI : The number of members and the quorum for both the committees is 16 and 6 respectively. I do not know why this anomaly was kept for the Schools Committee and I do submit humbly that if you want the work of the Schools Committee to move on smoothly and that too particularly at a time when I am the Chairman, you must accept the amendment. I will give you an incident. Because I am elected to the Chair, as I told you in my speech, even my best friends from the other communities have not liked the idea and they tried the experiment of putting me in the awkward position and because they got an opportunity they took it into their head to create some mischief. One of the members went out. Under these circumstances, we had to wait for 5 or 10 minutes for him to come back. A gentleman got up and asked for the quorum. I said the gentleman will come back. Both the gentlemen had arranged among themselves to harass me. The result was when I said that the gentleman would be coming, the other one got up and challenged me if I knew the ruling. I said I knew and still they were bent upon breaking the committee and the other gentleman went out and I had to adjourn the Committee.

Leaving my case aside it had been the bitter experience of my predecessor Mr. Killedar who was a Mahomedan. He had also to adjourn meetings for want of quorum. So if these things should not continue, and I am

* Speech not revised by the member.

[Dr. P. G. Solanki]

not asking a very great favour, I would request Government that this Schools Committee may have a quorum of six members instead of eight, just as in the case of the other two committees.

With these words, I commend my amendment to the House.

Mr. S. C. JOSHI : Sir, I rise to support this amendment. I think it is a very reasonable request. There is no body where the quorum has been fixed as high as 50 per cent. In our Council the quorum is one-third, ten members. In other bodies the case is the same. We find in the Corporation Standing Committee and the Improvements Committee the quorum is not as high as 50 per cent., but is 6 out of 16 and it is quite reasonable that it should be the same in the Schools Committee. In a body which has to meet so often and which has to do so many things, which is entrusted with a very huge amount of work, if the attendance required for the purposes of quorum is to be so high, several difficulties arise. Occasions might arise when one or two members might be absent. It is therefore for convenience and for despatch of business that this change is suggested. Of course, a larger number of persons being present is a very desirable thing in a body like this. At the same time, it creates difficulties also. Therefore I do heartily support this amendment.

The Honourable Mr. L. M. PATIL : Sir, this is altogether a new change suggested to be incorporated in the Act. As you know, the usual practice is that if any changes are to be made in the Act we generally send the proposals to the Corporation for their opinion. Of course it is for the Government to accept the opinion of the Corporation or not. So, if the Corporation want this, certainly Government will consider it, and we can bring forward another amending Bill. But for the present I have to oppose the amendment.

* Dr. P. G. SOLANKI : Sir, my object in moving this amendment was to bring to the notice of Government that these are our handicaps, and even though I am not able to see my amendment through, I am not disappointed. I will move the Corporation in the matter, and if the Corporation sees their way to apply to the Government I hope the Honourable Minister will keep his word and bring in a small amending Bill. At the same time, I do feel that if the Government had accepted the spirit of my amendment and sent a sort of gesture or a mandate to the Corporation, during the next session we could have got that Bill and everything would have been done. It is a dilatory method which the Honourable Minister has suggested to me. Very well, we are used to it, and we shall struggle on. I do not want to press for my amendment when the Honourable Minister has told me that if the Corporation were to send a reminder he would be willing to accept the suggestion and bring in an amending Bill. Therefore, I ask for leave to withdraw the amendment.

Amendment, by leave, withdrawn.

* Speech not revised by the member.

Clause 15 ordered to stand part of the Bill.

Clause 16 (*Amendment of section 42 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 17 (*Amendment of section 43 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 18 (*Substitution of section 45 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 19 (*Amendment of section 46 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 20 (*Amendment of section 47 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 21 (*Amendment of section 49B of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 22 (*Substitution of section 49C of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 23 (*Substitution of section 49E of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 24 (*Amendment of section 49F of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 25 (*Amendment of section 49G of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 26 (*Amendment of section 57 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 27 (*Amendment of section 68 of Bom. III of 1888*) ordered to stand part of the Bill.

Clause 28 (*Amendment of section 74 of Bom. III of 1888*) :

In section 74 of the said Act, in sub-section (2), for clause (c) the following shall be substituted, namely :—

“(c) receive such monthly salary as the Corporation shall, subject to the following limitations, from time to time determine, that is to say, the monthly salary of the Municipal City Engineer shall not exceed Rs. 2,000 and shall not be less than Rs. 1,200, the monthly salary of the Municipal Executive Health Officer shall not exceed Rs. 1,500 and shall not be less than Rs. 1,200, and the monthly salary of the Municipal Hydraulic Engineer shall not exceed Rs. 1,500 and shall not be less than Rs. 1,200.”

The Honourable the PRESIDENT: To clause 28 there is an amendment by the honourable member Mr. Karanjia seeking the deletion of the whole clause. I do not think it is an amendment. He can speak against the clause.

Mr. B. N. KARANJIA : Sir, I oppose clause 28 on the grounds that here I find that an incumbent who is in office now for a term of five years, has to remain on a less salary after 5 years. This is unfair. Therefore, I say that so far as the present incumbents are concerned, their salaries should not be reduced, but for the new entrants you may fix any salary you like. Therefore, I say that the original section 74 of the City of Bombay Municipal Act is quite in order and it appears to me that this

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clause 28 has been incorporated in this Bill to do injustice to one or two officers.

For these reasons I oppose this clause.

PROFESSOR SOHRAB R. DAVAR : Sir, I also support my honourable friend Mr. Karanjia and oppose this clause 28. The position is this. Our City Engineer, the Health Officer and the Hydraulic Engineer, are all nominally appointed for five years. Really speaking their term is automatically extended every five years. They are expected under the municipal rules to retire at the age of 55 and are given graded salaries on laid down scale. This five years' period is mentioned as an old practice only. At the end of five years as I stated just now their contract is renewed as a matter of course. By this reduction of their salaries, you will be doing a great injustice to a set of competent officers all of whom are perfect and loyal. One of them is Mr. Modak, who has proved to be a very capable City Engineer and we are all quite proud of him. The Health Officer Mr. Mhatre is also one of the best health officers. The Hydraulic Engineer Mr. Nadirshah has considerable experience in his line and is a man with special qualifications tried and trusted, and all of them have been in our service for quite a long time. We will be doing a great injustice to these officers if we reduce their salaries. After they retire, you may subject the future incumbents to any cut you like. But why subject these three officers who have rendered excellent service and who have been enrolled in service under circumstances when they never dreamt that they would be dismissed without fault, or subjected to a cut.

MR. N. D. DEODHEKAR : Sir, I would like to draw the attention of the honourable members to clause 32 on page 11. It says :

" Nothing contained in section 26, 28 or 29 of this Act shall apply to persons appointed to hold posts referred to in the said sections during the period for which they may have been appointed before the commencement of this Act."

Does this not protect the holders of posts ?

PROFESSOR SOHRAB R. DAVAR : That means five years.

* DR. P. G. SOLANKI : Sir, I also join my honourable friend Mr. Karanjia in opposing clause 28. I do not like the idea of having this clause 28 at this stage. It is a distinct injustice done to the tried officers of the Bombay Municipality who have given entire satisfaction to the Corporation. Now, Sir, it has been said that clause 32 safeguards the interests of the present incumbents. So far so good.

8 p.m. But we know that there are certain officers who are appointed for a certain period ; five years is the maximum period, and after the lapse of five years, if the present incumbents want to continue in their present posts, they will have to be degraded, as I look

* Speech not revised by the member.

[Dr. P. G. Solanki]

upon it—they will have to accept Rs. 1,500 or less or pack off. This is a great injustice to such tried and loyal servants, and no subordinates would ever bear it. But, Sir, the people's Government have come forward to effect retrenchment everywhere. I may, however, tell them that this sort of retrenchment will bring dissatisfaction and inefficiency to the whole Department, because all the departments affected are very important departments. Therefore I oppose clause 28.

The Honourable Mr. L. M. PATIL: Sir, the salaries of all the four statutory officers have been reduced; it is not in the case of the hydraulic engineer only that the salary has been decreased. Moreover, the scale of salary that is suggested in this clause is more or less on the basis of the recommendations of the Corporation. In February 1936, the Corporation suggested that the pay of the city engineer should be fixed at Rs. 1,400 to Rs. 2,000, that of the executive health officer from Rs. 1,200 to Rs. 1,500, and that of the hydraulic engineer from Rs. 1,000 to Rs. 1,200. But later on the Corporation changed their mind and suggested that the pay of the hydraulic engineer should be as it is in the Act, that is, from Rs. 1,200 to Rs. 1,800. So, what we have done is this, we have taken the mean of these two recommendations and fixed the pay of the hydraulic engineer at Rs. 1,200 to Rs. 1,500.

When we fixed the salaries of these four statutory officers we never took into consideration who the incumbents of the posts in question were or what their contracts were or what their terms of service were. As Government were anxious to reduce the salaries of the servants, we reduced the salaries of these four officers as we got the chance. At the same time we took into consideration the existing circumstances. When this question was being discussed in the Lower House, some members were angry and perturbed because Government had not reduced the salaries further. Then I explained that when the salaries were reduced, we had to take two factors into consideration. It is no doubt the intention of Government to introduce a certain amount of compulsion in this matter, at the same time the compulsion, should not be of such a nature and to such an extent that it will result in drastic effects. Along with compulsion, there must be also change in the circumstances and in the general outlook of the people. There must be compulsion, but at the same time the ground must be prepared. Then only we can achieve the aim of lower salaries and fix the scale of Rs. 500 or less in the case of all the servants. I know that in the case of the Hydraulic Engineer—I have got facts before me from certain members of the Corporation—after his contract is over he will not get even what he is getting at present. The present City Engineer Mr. Modak, as the honourable member Professor Davar has said, is a competent officer and has served the city efficiently. Really he could have got personal allowances, if recommended by the Corporation and if the recommendation was accepted by Government, his salary could

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have been then revised to Rs. 2,500. But under the present Bill that will not happen. So, there is no intention to do any injustice to any particular incumbent. If one feels that if the salary of any servant is reduced it will result in injustice to him, then I think it will be impossible to reduce the salaries of Government servants. When salaries are reduced, servants are bound to be hit and compulsion is necessary to reduce the salaries, but at the same time we have to bring home to the Government servants and to the other people also that money should not be the only consideration when they serve the State. In countries like England, America and others, though they are very rich and the economic circumstances there are better, still salaries of Government servants are not so high as compared to the salaries paid in our country which is poverty-stricken and where the majority of the population are burdened with debts and all sorts of miseries. It will no doubt be a great service done by the servants of the State if they are willing to serve on lower salaries. So, it is the duty of all the honourable members of this House to explain these things to the Government servants and make them realise the conditions of our society and thus induce them to receive lower salaries. I think the honourable members will be satisfied with my explanation.

Clause 28 put. The House divided : Ayes, 13 ; Noes, 9.

Division No. 8.

Ayes.

ATWANE, Mr. A. M.	GUIDO, Mr. T. M.
BHOSLE, Mr. M. G.	MARWADI, Mr. P. S.
DESAI, Mr. DADUBHAI P.	MENTA, Mrs. HANSA JIVRAJ
DESAI, Mr. NARSINGRAO S.	POTDAR, Mr. B. B.
DESAI, Sardar Rao Bahadur CHANDRAPPA R.	PRADHAN, Mr. R. G.
GANDHI, Mr. RATILAL M.	SHAN, Mr. SHANTILAL H.
	SOMAN, Mr. R. G.

Tellers for the Ayes : Mr. SHANTILAL H. SHAN and Mr. RATILAL M. GANDHI.

Noes.

DAYAR, Professor SURESH R.	MARAJANI, Dr. G. S.
DEODHREKAR, Mr. N. D.	SOLANKI, Dr. P. G.
JOSHI, Mr. S. C.	STONES, Mr. FREDERICK
KARANJIA, Mr. B. N.	VIREKAR, Mr. M. B.
KHAR, Khan Sahib A. A.	

Tellers for the Noes : Mr. N. D. DEODHREKAR and Dr. P. G. SOLANKI.

Clause 28 ordered to stand part of the Bill.

Clause 29 (*Insertion of new section 80B in Bom. III of 1888*) :

After section 80A of the said Act the following shall be inserted, namely :—

“ 80B. *Manner of making appointments.*—(1) Save in the case of acting appointments made under section 83, no person shall be appointed to any of the posts the power of appointment to which vests in the Corporation unless he possesses the qualifications specified in the rules made in this behalf under sub-section (3).

(2) Before making an appointment to any post referred to in sub-section (1), the vacancy shall be advertised in at least one local newspaper, calling for applications for such post; the applications received shall be scrutinised by the Commissioner, who shall then, out of the persons who may have applied, submit to the Corporation through a committee if so required by the Corporation a list of persons who in his opinion are qualified for the post.

(3) Subject to the provisions of this Act, the Corporation shall, with the previous sanction of the Provincial Government, make rules for the purposes of this section. The Provincial Government may, when sanctioning such rules, make such modifications or additions as it deems fit.”

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat) :
Sir, I beg to move—

In clause 29, at the end of sub-section (2) to section 80B, add the following proviso :

“ Provided that if the Corporation is of the opinion that any officer in its service who possesses the qualifications specified in the rules made under sub-section (3) for the post, is a fit person to be appointed to the post, it may direct that the vacancy shall not be advertised and may appoint such officer to the post.”

Question proposed.

Mr. SHANTILAL H. SHAH : Sir, under the Bill every vacancy has to be advertised. The effect of the proposed amendment is that if the Corporation is satisfied that a person in its service should be continued in the post, it may direct that advertisements should not be inserted. This is in compliance with the wishes expressed in the other House also. I hope it will be accepted.

The Honourable the PRESIDENT : The honourable member Mr. Karanjia has given notice of an amendment to delete the whole of clause 29. That is out of order. He may speak against the clause.

Mr. B. N. KARANJIA : Sir, I am glad that my honourable friend Mr. Shah has yielded.

An Honourable MEMBER : Mr. Shah is not the person.

Mr. B. N. KARANJIA : Of course on behalf of the Ministry. Sub-sections (1) and (2) now meet my desire, but on sub-section (3),

[Mr. B. N. Karanjia]

I differ. I hope you will put these sub-sections separately to vote.

The Honourable the PRESIDENT: The honourable member was asking for the deletion of the whole clause. If some sub-sections satisfy him, still he can speak against the other sub-sections.

Mr. B. N. KARANJIA: My point, Sir, is this. Clause 29 was not in the Bill which they brought before the Corporation. It has sprung up like a mushroom just overnight. Even a prominent member of the Congress opposed this clause in the Corporation, because it interferes with the internal affairs of the Corporation. I am glad that my honourable friend has sought to remedy the mistake regarding the enforcement of advertisement in regard to every vacancy. But still there is sub-section (3). As regards these rules, why should they be subject to the sanction of the Government? We must be able to make rules according to our requirements. The Corporation is a body which can feel its responsibility; no fault has been found with it so far. Why impose this condition on the Corporation? Therefore, I oppose clause 29. It has been embodied in the Bill without giving any notice to the Corporation and even without its previous knowledge. Even a prominent Congress member opposed it.

Mr. SHANTILAL H. SHAH: Sir, may I speak? There seems to be some misapprehension as to what the honourable member Mr. Karanjia intended when he referred to the opposition of some member of the Corporation who is also a prominent Congressman. As the original Bill stood, it stated that the Corporation could appoint only from a list of three persons selected by the Commissioner from the persons who applied. It was that that was objected to. Now, those words have been deleted in the Lower House, and the clause as it stands at present says that the Commissioner will submit to the Corporation "a list of persons who in his opinion are qualified for the post". The Corporation is not bound—

The Honourable the PRESIDENT: The honourable member Mr. Karanjia is not opposing sub-sections (1) and (2). He is opposing sub-section (3). The Corporation being an autonomous body, he does not want the Provincial Government to have any interference with its rules.

Mr. SHANTILAL H. SHAH: He referred to the opposition of a prominent member of the Congress.

The Honourable the PRESIDENT: That has no connection with these sub-sections.

The Honourable Mr. L. M. PATIL : This clause 29 was not referred to the Corporation for opinion. But it has been amended and watered down to a great extent. At present also, the usual practice is that posts are advertised and applications are invited; after the applications are received, they are scrutinised by the Commissioner and placed before the Corporation. So, we have only incorporated in this amended clause the usual procedure followed by the Corporation. I do not think here an attempt has been made to introduce provisions which are against the wishes of the Corporation except sub-clause (3) of clause (29). The only check that has been provided is regarding the rule-making power. But it has been thought necessary to do so. The honourable member of the Lower House, Mr. Jamnadas Mehta, while speaking on one occasion, remarked that the Corporation could sanction a loan of two crores in two minutes, but it would take a fortnight to make an appointment. Such a great tussle goes on between the different groups and parties when the appointments are made and so it was thought advisable that there should be some control over the appointments to posts. The intention is that the posts should be filled by persons who are competent, well qualified and up to the mark and with the amendments that have been accepted in the Lower House and with the amendment which is moved by the honourable member Mr. Shantilal Shah and which the Government accept, I think there is not much ground for grievance for the Corporation, and the clause as it is amended will, I hope, meet with the wishes of the Corporation and at the same time provide some control over the appointments.

With these words, I accept the amendment.

Mr. B. N. KARANJIA (Bombay City cum Bombay Suburban District) : The Honourable Minister stated that the Corporation was not consulted about this clause; then he said that this clause was brought in with the consent of the Corporation. I do not understand this. This clause never came before the Corporation and the Corporation was not invited to express any opinion on this clause. This is a new clause altogether.

Amendment put, and agreed to.

Clause 29 (*Insertion of new section 80B in Bom. III of 1888*), as amended, ordered to stand part of the Bill.

Clause 30 (*Amendment of sections 471 and 473 of and insertion of new section 473A in Bom. III of 1888*) ordered to stand part of the Bill.

Clause 31 (*Substitution of Schedule B to Bom. III of 1888*):

For Schedule B to the said Act, the Schedule as appended to this Act shall be substituted.

SCHEDULE B.

(See Section 24.)

Division of the City into Wards.

Con- secu- tive No.	Name of Ward.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
1	Upper Colaba . . Middle and Lower Colaba. Fort Southern.	A line starting from Colaba point extending along the harbour up to its junction with the extension of Ballard Road, thence along the South side of, Ballard Road, Sir Pherozesha Mehta Road and Napier Road, thence cutting across Esplanade Road to Mayo Road, thence along the East side of Mayo Road up to its junction with Church Gate Street, thence along the South side of, Church Gate Street, Sir Dinshaw Wachha Road to meet Backbay, thence along Backbay Sea-wall West of Blocks 6, 7 and 8 to Colaba point.	6
2	Fort Northern . . Esplanade.	A line starting from Backbay near Sir Dinshaw Wachha Road, extending along the North side of Sir Dinshaw Wachha Road, Church Gate Street up to its junction with Mayo Road, thence along the West side of Mayo Road cutting Esplanade Road to Napier Road, thence along the North side of Napier Road, Sir Pherozesha Mehta Road, and Ballard Road, thence in a straight line to meet the harbour, thence along the Sea, up to the North wharf of Carnac Basin, thence along the aforesaid wharf along the South side of Carnac Road, 1st Marine Street, continuing thence in a straight line to Backbay Sea-wall, thence along the sea to the starting point, viz., junction of Sir Dinshaw Wachha Road and Backbay Sea-wall.	6
3	Mandvi Chakla.	A line starting from the junction of Abdul Rehman Street and Carnac Road, extending Eastward along the North side of Carnac Road, thence in a straight line along the North Wharf of Carnac Basin to the Harbour, thence along the Harbour up to the North Wharf of Victoria Docks, thence extending along the Bombay Port Trust Railway siding running South of A and B Sheds of Princess Dock, thence along the South side of Masjid Siding Road and 1st Chinchbunder Road up to its junction with Dongri Street, thence Southward along the East side of Dongri Street up to its junction with Pydhoni Road, thence	5

SCHEDULE B—*contd.*

Con- sec- utive No.	Name of Ward.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
4	Umarkhadi .. Dongri.	<p>along the South side of Pydhoni Road to its junction with Sir Ibrahim Rahimtoola Road thence along the East side of Abdul Rehman Street to the starting point, viz., the junction of Carnac Road and Abdul Rehman Street.</p> <p>A line starting from the junction of Sir Ibrahim Rahimtoola Road and Pydhoni Road extending along the North side of Pydhoni Road then Northward along the West side of Dongri Street up to its junction with 1st Chinchbunder Road, thence along the North side of 1st Chinchbunder Road, Masjid Siding Road, thence along the Bombay Port Railway siding running south of A and B sheds of Princess Dock to Sea, thence along the Harbour Northward up to the South Wharf of Clerk Basin, thence Westward to Wari Bunder Road then along the South side of Wari Bunder Road and East side of Mazgaon Road and South side of Babula Tank Road, thence along the East side of Sir Ibrahim Rahimtoola Road to its starting point, viz., junction of Sir Ibrahim Rahimtoola Road and Pydhoni Road.</p>	5
5	Khara Talao .. Kumbharwada.	<p>A line starting from the junction of Sir Ibrahim Rahimtoola Road and Grant Road extending along the South side of Grant Road up to its junction with Trimbak Parsharam Street, thence along the East side of Trimbak Parsharam Street and Ardeshir Dady Street, thence along the North side of Vithalbai Patel Road to its junction with Cawasji Patel Tank Road, thence along the North side of Cawasji Patel Tank Road and Erskine Road up to its junction with Bapu Khote Street, thence along the East side of Bapu Khote Street to its junction with Sir Ibrahim Rahimtoola Road, and thence along the West side of Sir Ibrahim Rahimtoola Road to the starting point, viz., junction of Sir Ibrahim Rahimtoola Road and Grant Road.</p>	5
6	Bhuleshwar .. Market.	<p>A line starting from the junction of Erskine Road and Bapu Khote Street, extending along the West side of Bapu Khote Street and Abdul Rehman Street and thence along the North side of Carnac Road to its junction with Kalbadevi Road, thence along the East side of Kalbadevi Road and North side of Dady Sheth Agyari Street to its junction with Cathedral Street,</p>	7

SCHEDULE B—*contd.*

Con- secu- tive No.	Name of Ward.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
		<p>thence along the North side of Cathedral Street, thence Westward along the North side of Bhuleshwar Road and East side of Vithalbhai Patel Road to its junction with C. P. Tank Road, thence along the South side of C. P. Tank Road and Erskine Road up to the starting point, viz., the junction of Bapu Khote Street and Erskine Road.</p>	
7	Dhobi Talao Fanaswadi	<p>A line starting from the junction of Thakurdwar Road and Bhuleshwar Road extending along the South side of Thakurdwar Road, thence in a straight line running South of Government Printing Press to meet Backbay Sea-wall, thence Southward along Backbay up to its junction with the Road in continuation of 1st Marine Street, South of Marine Line Station, thence along the North side of the aforesaid Road, 1st Marine Street and Carnac Road to its junction with Kalbadevi Road, thence along the West side of Kalbadevi Road to its junction, with Dady Sheth Agyari Street, thence along the South side of Dady Sheth Agyari Street to its junction with Cathedral Street, thence along the West side of Cathedral Street and Bhuleshwar Road to the starting point, viz., junction of Thakurdwar and Bhuleshwar Roads.</p>	7
8	Khetwadi Tardeo.	<p>A line starting from the junction of Bellasis Bridge and B. B. & C. I. Railway lines extending along the South side of Bellasis Bridge, Bellasis Road up to its junction with Suklaji Street, thence along the West side of Suklaji Street and South side of Grant Road up to its junction with Trimbak Parsharam Street, thence along West side of Trimbak Parsharam Street, Ardeshir Dady Street and North side of Vithalbhai Patel Road, Girgaum Road to its junction with Frere Bridge, thence along the South side of Frere Bridge up to its junction with B. B. & C. I. Railway lines, thence along the East side of B. B. & C. I. Railway lines to the starting point, viz., to its junction with Bellasis Bridge.</p>	7
9	Girgaum Chaupati.	<p>A line starting from the junction of Harvey and Girgaum Roads extending along the South side of Girgaum Road up to its junction with Vithalbhai Patel Road, thence along the South side of Vithalbhai Patel Road and West side of Thakurdwar Road, thence in a straight line to Sea, thence</p>	6

SCHEDULE B—*contd.*

Con- secu- tive No.	Name of Ward.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
10	Walkeshwar Mahalaxmi.	<p>along the Canady Seaface up to its junction with Harvey Road, thence along East side of Harvey Road to the starting point, viz., to its junction with Girgaum Road.</p> <p>A line starting from the junction of Harvey Road and Sea extending along the West side of Harvey Road, North of Frere Bridge to its junction with B.B. & C.I. Railway lines, thence along the West side of B. B. & C. I. Railway lines up to its junction with Clerk Road, thence along the South side of Clerk Road to meet the Sea at Hornby Vellard, thence along the Sea up to the Malbar point, thence Northward along the Sea to the starting point, viz., to its junction with Harvey Road.</p>	6
11	Mazgaon Tarwadi.	<p>A line starting from the junction of Kalachowky and Parel Road extending along the East side of Parel Road, Victoria Gardens Road to its junction with Shephard Road, thence Nesbit Bridge and along North side of Nesbit Road up to its junction with Mazgaon Road, thence along the East side of Mazgaon Road up to its junction with Wari Bunder Road, thence along the North side of Wari Bunder Road, thence Southward along the East side of Frere Road up to a distance of about 500 feet, thence Eastward to the North Wharf of Frere Basin, thence Northward along the Harbour up to the South Wharf of Brick Bunder, thence along the aforesaid Wharf up to Signal Hill Avenue, thence along the South side of the New 80 feet Road and South of N to B Sheds in the Cotton Green up to Cotton Avenue then along the North side of Cotton Avenue up to the 1st Avenue and then along the South side of 1st Avenue to Reay Road, thence Northward along the West side of Reay Road to Kalachowky Road, thence along the Southside of Kalachowky Road to the starting point, viz., junction of Kalachowky and Parel Road.</p>	6
12	1st Nagpada 2nd Nagpada. Kamathipura.	<p>A line starting from the junction of Suklaji Street and Grant Road extending Eastward along the North side of Grant Road and Babula Tank Road and the West side of Mazgaon Road to its junction with Nesbit Road, thence along the South side of Nesbit Road cutting across Victoria</p>	6

SCHEDULE B—*contd.*

Con- secu- tive No.	Name of Ward.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
		Gardens Road to Shephard Road, thence along the South side of Shephard Road, thence Southward along the Eastside of Clare Road to its junction with Bellasis Road, thence along the South side of Bellasis Road to its junction with Suklaji Street, thence along the East side of Suklaji Street to the starting point, viz., the junction of Grant Road and Suklaji Street.	
13	Byculla	A line starting from the junction of Victoria Gardens Road and Shephard Road extending along the North side of Shephard Road, thence Southward along the West side of Clare Road up to Bellasis Road, thence along the North side of Bellasis Road up to the B. B. & C. I. Railway lines, thence along the East side of the B. B. & C. I. Railway lines up to its junction with Clerk Road, thence Eastward along the South side of Clerk Road, Jacob Circle, and Arthur Road to Chinchpokli Station, thence cutting across Chinchpokli Station to Kalachowky Road, thence along the South side of Kalachowky Road up to its junction with Parel Road, thence Southward along the West side of Parel Road, and Victoria Gardens Road to the starting point, viz., the junction of Victoria Gardens Road and Shephard Road.	7
14	Parel	A line starting from the G. I. P. Railway Parel Station extending Eastward along the South side of Elphinstone Road and Jerbai Wadia Road to its junction with Parel Tank Road, thence along the West side of Parel Tank Road and North side of Kalachowky Road to G. I. P. Railway Chinchpokli Station, thence Northward along the East side of G. I. P. Railway Lines to Parel Station.	5
15	Sewri-Naigaum	A line starting from the junction of 1st Avenue and Reay Road extending Northward along the South side of Reay Road and Parel Tank Road, thence Westward along the North side of Jerbai Wadia Road and Elphinstone Road to its junction with G. I. P. Railway lines, thence Northward along the East side of G. I. P. Railway lines up to its junction with the Naigaum Cross Road, thence along the South side of Naigaum Cross Road, thence Northward along the East side of Katrak Road to its junction with Sewri Cross Road, thence along the West side of Sewri Cross Road to its junction with the	5

SCHEDULE B—contd.

Con- secu- tive No.	Name of Ward.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
16	Matunga-Sion ..	extension of Jerbai Wadia Road, thence Eastward in a line with the Jerbai Wadia Road extension to Khadkal Creek, thence Southwards along the Harbour to the South side of Brick Bunder, thence Westward up to its junction with Signal Hill Avenue and thence along the North side of the New 80-feet Road North of N to B Sheds in the Cotton Green up to its junction with Cotton Avenue, thence Northward along Cotton Avenue up to its junction with 1st Avenue and thence Westward along 1st Avenue up to the starting point, viz., the junction of Reay Road and 1st Avenue.	4
17	Dadar-Mahim ..	A line starting from the middle of Mahim Causeway (from Bombay Limit), thence Southward, West of Mahim Causeway along the sea up to Kashinath Dhuru Road, thence along the North side of the aforesaid Road to its junction with Portuguese Church Street, thence along the North side of Portuguese Church Street and Dadar Road to its junction with the G. I. P. Railway Dadar Station, thence Northward along the West side of the G. I. P. Railway lines to the Northern Boundary of the City, thence across the creek to the North of Rewah Fort to the starting point, viz., middle point of Mahim Causeway.	4
18	Parbhadevi-Worli	A line starting from the G. I. P. Railway Dadar Station extending along the West side of the G. I. P. Railway lines, Southward up to the G. I. P. Railway Store Yard, thence Westward cutting the yard up to the foot of De Lisle Road overbridge, and thence along the West of West Low Level Road up to Ferguson Road, thence along the North side of Ferguson Road and Worli	5

SCHEDULE B—concl'd.

Con- secu- tive No.	Name of Ward.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
		<p>Road up to its junction with Pochkhanawala Road, thence along the North side of Pochkhanawala Road to Sea, thence Northward along the Sea to Worli point, thence along the Sea (Mahim Bay) up to its junction with Kashinath Dhuru Road, thence along the South side of the afore-said Road to Portuguese Church Street, thence along the South side of Portuguese Church Street and Dadar Road to G. I. P. Railway Dadar Station.</p>	
19	Chinchpokli- Love Grove.	<p>A line starting from the junction of Pochkhanawala Road and Worli Sea face extending along the South side of Pochkhanawala Road, Worli Road and Ferguson Road, thence Northward along the East side of Low Level Road up to the foot of De Lisle Road overbridge, thence cutting across G. I. P. Railway Store Yard to G. I. P. Railway Lines, thence Southward along the West side of G. I. P. Railway lines up to Chinchpokli Station, thence Westward along the North side of Arthur Road, Jacob Circle and Clerk Road to Sea, thence Northward along the Sea to the starting point, viz., junction of Pochkhanawala Road and Worli Sea face.</p>	4
		Total ..	106

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, I oppose this clause on the ground that we, the minority communities, do not want this sub-division of wards. The Congress people used to say that the British policy was to divide and rule. Here also, if you will read the clause, you will find that the Congress Ministry wants to divide and rule over the minorities. If the minority communities are divided, they will be nowhere. Therefore, I oppose this clause.

Professor SOHRAB R. DAVAR (Bombay City *cum* Bombay Suburban District): Sir, I may state for the information of the House that I, as a minority community member, am entirely in favour of the clause. I may also state that a large number of minority members are in favour and I know them personally. In fact the position is that if the wards are unwieldy, the minority communities' position will be worse, particularly in the case of the adult franchise. I think in the case of five-rupce

[Prof. Sohrab R. Davar]

franchise also the division of wards will not make the minority position any the worse. The present division has been very satisfactorily made. I have noted the distribution of the population by this sub-division and I quite agree with the statement of the Government to the effect that the sub-divisions are so effected that no injustice is done to the minority communities. You must give credit where it is due and, therefore, I am sorry I cannot support my friend Mr. Karanjia here.

The Honourable Mr. L. M. PATIL: I do not desire to say anything more than what I have already said.

Clause 31 ordered to stand part of the Bill.

The Honourable the PRESIDENT: Schedule B is referred to in this clause and it would be better and more convenient to take schedule B here along with the clause. I will now put the schedule to the House.

Schedule B ordered to stand part of the Bill.

Clause 32 (*Saving in case of present incumbents*):

Nothing contained in section 26, 28 or 29 of this Act shall apply to persons appointed to hold posts referred to in the said sections during the period for which they may have been appointed before the commencement of this Act.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Sir, my point, according to what I have said on section 28, is that the salaries of the present incumbents should not be reduced and therefore I oppose it.

Mr. SHANTILAL H. SHAH: Sir, the effect of the amendment will be that even during the term of the present agreement the salaries will be reduced. I do not think the honourable member wants that.

Mr. B. N. KARANJIA: I will give an instance. If an officer is getting Rs. 2,000 before his agreement expires, he will get Rs. 1,500 only after the expiry of the bond. That is my point. Therefore, I say that the salaries should remain the same even after termination of agreement. That is my point and therefore I oppose the clause.

Mr. SHANTILAL H. SHAH (Broach and Panch Mahals *cum* Surat): Sir, This clause does not deal with the salaries after the renewal of agreements. It means that during the present term which is running the salaries shall not be reduced by the passing of this section. If the clause is deleted, it may mean that the present incumbents, before the contract is over, shall get lower salaries.

Clause 32 ordered to stand part of the Bill.

Clause 33 (*Savings*) ordered to stand part of the Bill.

The Preamble ordered to stand part of the Bill.

The Honourable Mr. L. M. PATIL: Sir, I beg to move that Bill No. XVII of 1938 (An Act to amend the City of Bombay Municipal Act, 1888), as amended, be read a third time and passed.

Question put, and agreed to.

The Honourable the PRESIDENT: The Bill, as amended, is read a third time and passed.

BUSINESS OF THE HOUSE.

The Honourable the PRESIDENT: As regards the agenda for tomorrow, there are three Government motions.
8-30 p.m. Tomorrow being Saturday, we will meet at 10-30.

Honourable MEMBERS: That is too early. Make it 11.

The Honourable the PRESIDENT: Very well.

There is one matter which I want to bring to the notice of the House. On the last occasion, the report of the committee on the Draft Rules stood over to this session. Tomorrow seems to be the last day of the session, and as nothing has been done with regard to the rules, I think the matter will have to stand over to the next session.

The House then adjourned till 11 a.m., on Saturday, the 7th May 1938.

Saturday, the 7th May 1938.

The House re-assembled at the Council Hall, Bombay, on Saturday, the 7th May 1938, at 11 a.m., the Honourable the President, Mr. MANGALDAS M. PAKVASA, presiding.

Present :

ATAWANE, Mr. A. M.
 BHOSLE, Mr. M. G.
 DAVAR, Professor SOHRAH R.
 DEODHEKAR, Mr. N. D.
 DESAI, Mr. DADUBHAI P.
 DESAI, Mr. NARSINGRAO S.
 DESAI, Sardar Rao Bahadur CHANDRAPPA B.
 GANDHI, Mr. RATILAL M.
 GUIDO, Mr. T. M.
 HAMIED, Dr. K. A.
 JOSHI, Mr. S. C.
 KARANJIA, Mr. B. N.
 KHAN, KHAN SAHEB A. A.
 MAHAJANI, Dr. G. S.
 MAKAN, Khan Saheb MAHOMED IBRAHIM
 MARWADI, Mr. P. S.
 MEHTA, Mrs. HANSA JIVRAJ
 POTDAR, Mr. B. B.
 PRADHAN, Mr. R. G.
 SHAH, Mr. SHANTILAL H.
 SOLANKI, Dr. P. G.
 SOMAN, Mr. R. G.
 STONES, Mr. FREDERICK
 TAMBE, Mr. MAHOMED AMIN WAZEER MAHOMAD
 VIRKAR, Mr. M. B.

The following Honourable Ministers were also present :

The Honourable Mr. B. G. KHER.
 The Honourable Mr. A. B. LATTHE.
 The Honourable Mr. M. Y. NURIE.

**BILL No. XV OF 1938 (AN ACT TO AMEND THE BOMBAY
 PRIMARY EDUCATION ACT, 1923).**

(Message from the Legislative Assembly.)

The Honourable the PRESIDENT: The following message has been received from the Secretary to the Legislative Assembly :

"In accordance with Rule 21-I (1) of the Bombay Legislative Assembly Rules, I am directed to inform you that the amendments made by the Legislative Council in Bill No. XV of 1938 (An Act to amend the Bombay Primary Education Act, 1923) were taken into consideration by the Legislative Assembly at its meeting held on the 6th May 1938 and that the Legislative Assembly has agreed to the amendments."

SHORT NOTICE QUESTION AND ANSWER.

RELEASE OF A PRISONER CONVICTED OF MURDER.

Mr. N. D. DEODHEKAR : Sir, I ask my short notice question about the release of a prisoner convicted of murder.

The Honourable Mr. K. M. MUNSHI : The question is " Will the Honourable Minister for Home Department (and Legal) be pleased to state—

(a) whether it is a fact that one Mr. R. H. Kulkarni, a pleader of Sholapur was murdered at Sholapur in the year 1927 during the Hindu-Muslim riots ;" The answer is " Yes ".

Part (b) of the question is " whether it is a fact that the offender was prosecuted and sentenced to transportation for life ;" The answer is " Out of 8 accused prosecuted in the case, one was convicted and sentenced to transportation for life and to rigorous imprisonment for five years—the sentences to run concurrently ".

Part (c) of the question is " whether it is a fact that he was released before the expiry of the term of his sentence ;" The answer is " Yes, after he had served about 11 years ".

Part (d) of the question is " if so, what were the reasons for releasing him ;" The answer is " The release of convicts involved in old Hindu-Muslim riots, effected at the request of Hindus and Muslims of the place elsewhere, was found to have a good effect on the communal situation in the Province. Government followed the same course in respect of Sholapur ".

Part (e) of the question is " whether the parents or the widow of the late Mr. Kulkarni were consulted before ordering the release ;" The answer is " No. Several leading Hindus and Muslims of Sholapur requested Government to take this step in the interests of communal harmony of the place ".

Part (f) of the question is " Whether any compensation was paid to the relatives of the murdered pleader ". The answer is " The information will be supplied later. I have not got it here, and it will take time to get it ".

Mr. N. D. DEODHEKAR : I understood the reply to (b) to be that the prisoner was released on account of the applications of the residents of the place. Will Government be pleased to place the applications on the Council table ?

The Honourable Mr. K. M. MUNSHI : There were some applications by the Mussalman community and some from the relatives of the prisoner. But several deputations, both of Hindus and Mahomedans, saw me, and asked me that in the interests of friendly communal relations there this prisoner should be released, but there is nothing in writing.

Mr. N. D. DEODHEKAR : About compensation, the information will be supplied later ?

The Honourable Mr. K. M. MUNSHI : Yes. I must refer to the Collector, which will take time, and the honourable member wanted an answer to his question before the close of the present session.

GOVERNMENT MOTIONS.

Utilization of power from Bhatghar Dam.

The Honourable Mr. M. Y. NURIE : Mr. President, Sir, the motion which I beg to move is :

" This Council being strongly of the opinion that a rapid electrification of villages is necessary for general rural uplift as a part of the agrarian policy of the Government, approves of their action in utilising the Power-house at Bhatghar Dam—

(a) at an estimated cost of Rs. 85,000, for the purpose of taking a line to Shirwal with three pumping installations as a first stage in spreading the use of electricity in the villages up to Lonand *via* Neera ; and

(b) at an estimated cost of Rs. 3½ lakhs, for the purpose of supplying current to the Government House, Poona, Yerwada Jail and Yerwada Mental Hospital."

Question proposed.

The Honourable Mr. M. Y. NURIE : Sir, when the Bhatghar Dam was under construction, the Government installed an electric plant there for supplying electricity during the construction of the dam. They have got there four turbines and other machinery to generate electricity. These turbines were used during the construction of the dam, and they have amply repaid the Government for the expenses incurred on them. At present, as the report on the turbines says, they are in a good condition, and they might last for another 15 to 20 years. As the House is aware, for 9 months in the year the dam gives water to the river bed to be used in the Neera Right Bank and Neera Left Bank canals, and therefore there is a flow of water for these 9 months regularly. During the monsoon for three months, the water is not taken from the dam for purposes of irrigation, but there is an ample supply of water which might be taken during the monsoon season to keep these turbines working as the water flows from it soon after the monsoon has set in.

After 1928, for reasons which are not known to this Government, it was decided not to use these turbines there. After some time the Bhor State wanted electricity, and at present one turbine is being used with a load of 50 kilowatts for supplying electricity to Bhor State at 2 pies per unit, and the income which Government receive is about Rs. 6,000 per year. As the policy of this Government is to supply cheap electricity to the rural areas for the uplift of the people, for use for industrial and Irrigation purposes, the Government have taken the first step to utilise the turbines which are lying idle there. As I have said, each of the four turbines is of the capacity of about 256 K.W. and if we use three turbines and keep one spare, we will have about 750 K.W. of

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electric energy. Now, it is proposed at present by Government to take one line from this dam to Shirwal which is eight miles and to extend it afterwards to Neera and Lonand. On this line we will be able to use 250 K.W. and the remaining power, the Government intend to use on another line which will extend up to Poona town. The expenses on the first line for eight miles would be about Rs. 85,000. The transmission line would cost Rs. 3,000 per mile, which would come to about Rs. 24,000 for the eight miles, then step-up transformers at the power house Rs. 12,000, and the three pumping stations on the way would cost us Rs. 13,000 each, that is, in all Rs. 39,000. All this will come to Rs. 75,000 and then the services in Shirwal village would cost us Rs. 10,000. In toto it will be about Rs. 85,000 and the income which the Government expects in the very first year is about Rs. 10,200. From 30 K.W. small motor loads Government would get Rs. 2,500; from irrigation of 900 acres of land at Rs. 8 per acre Rs. 7,200 and from lighting Government would get Rs. 500. That is, in all Government would get Rs. 10,200. I may submit for the information of the House that up to Shirwal good land would be available to the extent of 4,400 acres and it is expected that if once the agriculturists know the use of electricity, it is possible that they would utilise the whole land for irrigation purposes. The river bed is low and the land lying on either side is on a little higher level and, therefore, though lifting the water at present is not possible, I am sure that this whole area of 4,400 acres of good soil would be utilised for the first time for irrigation as soon as the electricity is available and it is quite possible that other soils also might be irrigated with this scheme. I am sure, therefore, that this House would approve of the policy of the Government as far as this line towards Neera is concerned.

The second line which this Government intends to take is to Poona. It may not be taken that we only want to supply to our buildings and to do away with the present supply of the Poona company. The intention of the Government is first to supply electricity on the way while taking the line to Poona, but as the facts about the power which would be used on the way are not available and as the House was rising, therefore it was not possible to give full facts about it. As I have said, if we take electricity to Poona and supply only to our buildings, we will be saving Rs. 30,000 which we are to-day paying to the Poona company for the electricity they are supplying to us. Our expenses for the maintenance, interest and depreciation are estimated to be Rs. 26,500 annually and, therefore, there would be a net saving of Rs. 3,500. But it is our intention to supply electricity to rural areas first.

I hope this House will approve of this policy of the Government and wholeheartedly support the resolution which I commend to the House.

Mr. N. D. DEODHEKAR: From what source are these Rs. 3½ lakhs to come?

The Honourable Mr. M. Y. NURIE : We are not having it from the ordinary revenue, but it will be taken from the surplus which the Government have in hand.

Mr. B. N. KARANJIA (*Bombay City cum Bombay Suburban District*): Sir, not only do I wish to congratulate the Honourable Minister but I wish to say "Well done". Sir, I have visited Bhatghar many times and the scheme which has been now initiated by the Honourable Minister of supplying electricity to Neera and Lonand is really an excellent one. Sir, I was always of opinion and I have said it many times also that the surplus waters as also the tail-waters should be used, as it will be used now, for generating electric energy. Sir, these dam waters and also tail-water are used in various countries for such schemes and particularly this is done in Japan. Sir, the prosperity of Japan nowadays lies only on these schemes, and I can say with confidence that such schemes will lead India to prosperity; not only that, but it will be one of the finest countries in the world if these schemes are proceeded with.

Sir, I think Prohibition is a wild goose chase, but on this scheme I have to congratulate the Honourable Minister in charge, and I can say that if the Congress Ministry takes into its head to bring all such schemes into existence, then it will be doing real service to the country. I suggest that tail-water should be used for the uplift of the rural areas. Sir, I have been always of the opinion that if this tail-water is utilised for the rural uplift, Government can do a lot of good to the poor people. All sorts of facilities for drinking water, as well as water for agricultural purposes should be given. Not only that, but weaving factories should be started. To-day artificial silk factories are cropping up like mushrooms and if they are given this electric power, I think the prosperity of India will be increased to a great extent. This is the first time that the Honourable Minister has come with this proposal, but if the Honourable Minister brings forth 50 such proposals, we shall give him our whole-hearted support. This is the only way to improve the lot of the rural population. This is the only way by which the poor people who are getting R. 5 or 6 a year would earn about Rs. 100 a year and that is how I say this is the best scheme. I can only say that such schemes may be brought to us in future in great numbers. I again say that the Minister has "Well done" and the credit goes to him for having initiated this scheme.

Mr. DADUBHAI P. DESAI (*Ahmedabad cum Kaira*): Sir, I congratulate the Honourable the Minister for Public Works on moving this resolution in this House and on giving us an opportunity for expressing our views thereon. This is perhaps the first time during the life of the reformed councils that electric power generated by Government is being given for the uplift of industries in the rural areas and the modest beginning that has been made by the Honourable Minister—though it is nothing but a very modest beginning I should say—I hope this modest

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beginning will be succeeded by still bigger undertakings even though apparently they may appear to be a little bit risky, and I should think that the Honourable Minister would do well by bringing such schemes before this House and starting them.

Let us now see what effect this scheme will have. Even the expenditure of about 3½ lakhs will not only pay its way, but by putting about 6,000 acres to the use, it has opened up the possibility of starting one more sugar factory in these areas. This is not a small thing. Sur, and when we consider that if bigger schemes had been undertaken what benefit would have been derived by this Presidency? I have seen the Bhatghar Dam. Though it is not the biggest, it is perhaps one of the biggest dams in the world and I think if by increasing the capacity of that dam a little bit you can expand the possibilities of power generation that would not only be beneficial to that district alone, but I should say it would benefit indirectly the whole Presidency. The Honourable Minister has, by now, I think all the schemes that are feasible in this Presidency and I would just request him to go through all these schemes and even if they prove to be of a protective nature they should be at once put through. The reason why I say that even if they prove to be of a protective nature they should be undertaken is that by combining hydraulic electric schemes with the irrigation schemes, as I said in one of my speeches in this House, Government would, on the whole, be making that scheme not only protective but also productive because the revenues from the power supply as well as the irrigation, both combined, might make that scheme productive; and after all what matters if this Presidency has to bear a loss of 3 to 4 lakhs every year which would come to about one per cent. every year when we look to the improvements that we would make in the industry? There are, I learn, about 84 lakhs of acres of forest in our presidency and in these forests there are such potentialities for starting these hydraulic electric schemes coupled with the irrigation schemes that not only these forests would be productive but also the schemes would be productive to a great extent. Just see this Bhatghar Dam which we are running at a huge loss. This Bhatghar irrigation scheme is not a productive scheme in the real sense of the word. It is being worked at a huge loss. Now, if Government would get from these hydro-electric schemes about a lakh or two more it would mean removing the loss from the capital of a crore of rupees and that is why I say that no effort should be spared in investigating these schemes and putting them through. Of course, if they do not pay in the beginning they will pay in the long run. As regards the Bhatghar Dam also, I think that if it is raised a little bit it will be a paying proposition.

With these remarks, I again congratulate the Minister for being the first Minister in this Presidency to bring about an electric scheme which will have an immense effect on the rural development of this presidency. My only regret is that up to now Government had slept over these possibilities. Even this power used was lying idle for so many years. The

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Bhor State came forward with a scheme to supply electricity to the Bhor State but the Government were apathetic to such matters.

I therefore thank the Honourable Minister for having brought this scheme and I hope it will be the forerunner of greater schemes to come.

Mr. NARSINGRAO S. DESAI (Dharwar *cum* Kanara): Sir, I rise to support the resolution. Sir, I first congratulate the Honourable Minister for having presented to us these schemes. These schemes will benefit the province and will also improve the economic condition of the ryots nearby. I hope the Honourable Minister will still find out many more such schemes in the presidency and try to improve the condition of the ryots without any charge on the provincial revenue. This is a good project. In Karnatak many such works can be started. There are big rivers and the tract is famine-stricken. There are big rivers like Wardha, Tungbhadra, Krishna, Malaprabha and Ghataprabha which flow through famine-stricken area. It is true that if irrigation works only are undertaken they will not be paying; they will be only protective and not productive. So, I think this is a good plan to start hydro-electric works. They will not be a charge on the provincial revenue and at the same time they will improve the economic condition of the ryots. Besides these, there is one big water-fall in Karnatak, namely, the Gersoppa waterfall. I hear that that is given to the Mysore State though nearly half or more of it belongs to the British Government. I do not know why it is given. I hear that the State is going to spend three or four crores of rupees on this work which will benefit the State people only. If our Government also takes it into their head to improve the condition of the ryots it will be useful to us.

With these words, I support the resolution.

Khan Saheb A. A. KHAN (Central Division): Sir, I find in clause (b) of this Resolution that there is a provision at an estimated cost of Ra. 3½ lakhs, for the purpose of supplying current to the Government House, Poona, Yeravda Jail and Yeravda Mental Hospital. I would like to know from Government whether they are aware that till about the year 1929 there used to be a power house at the Yeravda Jail which supplied current to the Government House, to the Jail premises as well as to the Mental Hospital and that in the year 1929 or thereabouts Government stopped the Power House and began to take current from the Poona Electric Supply Co. What happened to the engines and machinery there? Can they not be utilised and current supplied to these three places instead of taking current as proposed?

Mr. FREDERICK STONES (Presidency): Mr. President, Sir, I do
 11-30 a.m. not wish to detain the Council long, but I think I will be neglecting my duty if I do not compliment the Cabinet and the Minister in charge for this work. It is not a well-advertised work, but I believe that from this work will accrue much

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more benefit than through many of the other schemes so greatly advertised. I would request the Honourable Minister in charge to pay particular attention to this project. I believe, on the success of this project, further development of rural industries will depend.

Recently I made a trip to Java and spent about a fortnight touring the country. I was struck by the enormous development of rural industries in that country and this development was greatly assisted by Government providing a supply of cheap electricity. I would certainly recommend that some day in the near future the Bombay Government may spare one of the members of their Industries Department to go down to Java and study this particular section of the development of rural industries.

There is one question that I would like to ask on a point of information. I do not mind whether the scheme makes or loses money. I want it to go on as a basis for future developments, but I would like to ask from the Minister in charge whether the saving of Rs. 3,500 indicated on the Poona section takes into account the income Government received from the electricity tax paid by the Poona Electric Supply Company. I am not opposing in any way, but I am asking as a matter of information.

Mr. N. D. DEODHEKAR (Thana cum Nasik cum Ahmednagar): Sir, it is a matter of satisfaction that Government has taken in hand this scheme for the rural uplift. The margin of Rs. 3,500 profit seems to be a very small one; I think Government is undertaking this scheme on the advice of their experts. Experts, we know, are generally enthusiasts and partial. The Back-Bay Scheme and the Sukkur Barrage Scheme were taken up on account of the enthusiasm and advice of experts. But all the same, as Government has turned its attention to rural uplift, let us hope this scheme will be successful. In Thana we have got so many wires overhead. I hope it will receive attention shortly. There are the Budlapur and other Tail-waters. These waters should be utilised by the help of electricity. There will be no shortage of funds, as feared by some. Our Ministers, having accepted Rs. 500 per mensem as their salary, have put limit on their income. But my honourable friend Mr. Karanjia has promised to support fifty such schemes, and I am sure he will not grudge paying additional taxes when required to support such schemes.

The Honourable Mr. M. Y. NURIE: Sir, I thank all the honourable members of this House for the support which they have given and especially for the good words they have used concerning this scheme. I may tell the House, because it is the right opportunity for it, that this Government has already appointed a committee for the survey of this Presidency for creating centres in the Presidency to supply therefrom the cheapest electricity to the Presidency. I may also say that the policy of this Government is to combine irrigation with hydro-electric schemes and to utilise the present dams and the waterfalls for this purpose. It is just, as I said in the beginning, the first step towards that object.

[Mr. M. Y. Nurie]

Questions have been asked and as far as the Yeravda Plant was concerned, I may first say that it was not economical to run it looking to the rates at which the Poona Electric Supply Company was ready to supply to Government. Therefore it was closed down. But by having this scheme in hand, we will be generating electricity at a far lower rate and therefore we have taken into consideration to supply electricity to our buildings in Poona from this dam. As I said in the beginning, it is not only with the object of supplying to our buildings that we are having this line. On the way, as I said, we have got important villages and good soil for irrigation purposes on this line as well. I only said in the beginning just to point out that even if people do not make use on the way, even then Government will be able to save Rs. 3,500, but it does not mean that we do not intend to supply power on the way. Our intention is to supply electricity to the villagers for their purposes first.

The second question has been asked by the honourable member Mr. Stones and I wish to inform him that Government does not take any benefit from the company for the supply which they make to the Government and, therefore, the question does not arise here. The taxes which the supply companies pay to the Government when they are supplying electricity to the Government, are not charged from the Government and, therefore, there is no question of taking into account that amount.

Mention was made by one honourable member about Karnatak. I wish to assure him that Government is aware of the fall at Jok and they are considering that question and they are investigating into the question of how to harness the waterfall there, but there are certain conditions laid down in the agreement which was made with the Mysore State and it is being considered. Every advantage will be taken by this Government of such natural falls which are in the Presidency and as I have said a Committee has been appointed to survey and inform the Government as to how they can best use these falls or in some other way to generate cheap electricity for the Grid system. I am sure that soon Government would go with greater speed to achieve this object.

Mention has been made that we must not be led away by expert opinion. I may assure the House that this Government has been very cautious and this step has been taken very cautiously. We have not taken this step on the advice of our own engineer, but we have taken precaution to get it examined by another independent Electric Engineer and after the advice of that Engineer we have taken that step and I can assure that Government is taking every precaution when they want to spend money. I am sure that this step would be really beneficial to the people and also would get sufficient return to the Government.

Motion put, and agreed to.

Mr. B. N. KARANJIA : In this connection, I had sent some starred questions to which I have not received replies.

The Honourable the PRESIDENT : About the Bhatghar dam ?

Mr. B. N. KARANJIA : No, Sir. About electricity concerns in the Bombay Presidency.

The Honourable Mr. M. Y. NURIE : I may inform the honourable member that up to now I have not received any starred questions from him. They might be in the office, but I have not seen them.

Mr. B. N. KARANJIA : May I inform the Minister in charge that these questions were sent to the department, which has prepared the answers and they have been sent here ?

The Honourable the PRESIDENT : The honourable member seems to know more than the Honourable Minister about it.

The Honourable Mr. M. Y. NURIE : They may be in the department. They have not yet come to me. I shall send a copy of the answers to the honourable member. I have not yet received the answers from the office, and the House will be prorogued today.

Conversion of the Government Law College into a full-time Institution.

The Honourable Mr. B. G. KHER : Sir, I beg to move :

“This Council approves of the policy of Government to convert the present part-time Government Law College, Bombay, into a full-time institution.”

Question proposed.

The Honourable Mr. B. G. KHER : Sir, this resolution was put to the Assembly yesterday. The question is a very important one and has been considered from time to time by all those who are interested in the improvement of our legal education. As far back as 1915 a committee was appointed under the presidentship of the late Sir Narayan Chandavarkar, and although at that time this committee did not advise that the part-time Law College should be converted into a full-time Law College, it made several very useful suggestions. One of them was that whether the Government Law College was converted into a full-time institution or not, it was desirable, as soon as practicable, to locate it in a building of its own, as near as possible to the University and to the High Court. The defect of the Law School as it was then run was not merely that instruction was given only for an hour or so daily in classes held in the evening only, but that having no building of its own, no well equipped library, no full-time professors and other essential conditions, the Law School failed to create the necessary atmosphere and to foster an *esprit de corps* among the students by affording them opportunities for the cultivation of mutual friendship and the creation of healthy traditions among professors and pupils. They also recommended that a full-time principal and full-time professors should be appointed to

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guide the students in their study of law. The study of law as a proper science is important not only from the commercial or from the professional point of view. On the proper study of law depends the administration of justice in the country, and I hope at this time of the day the value of law as a social science and of its study in a properly equipped college under competent teachers needs no recommendation at my hands. For reasons which they gave at that time, the Chandavarkar Committee did not recommend that the present part-time Law College should be converted into a full-time institution. As the instruction is given in the college for an hour or so in the evening by professors who have spent most of the day in practising or waiting for clients in the courts and to pupils who have been working in some office or school, the post office or somewhere else the whole day and attend the college in the evening as a sort of spare time occupation, very little serious attention is bestowed on the study of law, and the results are very, very unsatisfactory. This was pointed out by the Honourable the Chief Justice and the Vice-Chancellor of the Bombay University in a memorandum which they drew up in February 1935 and submitted to the then Governor, Lord Brabourne. They pointed out that neither of the two courses by which a candidate became an advocate, namely, the University examinations for the LL.B. degree, and the Bar Council examination for the High Court Pleader's certificate, provided a satisfactory training for those who desired to become advocates and they submitted their recommendations. They proposed that students should be diverted after the Intermediate examinations to a full-time law course for two years for the University LL.B. degree; that after passing the LL.B. examination they should, after one year's training in Chambers under experienced advocates, be subjected to a Bar Council test. The intention of the Honourable the Chief Justice was that Government should take over the question of reforms in legal education. Unfortunately, the Government of that time was not sufficiently interested. The Honourable the Chief Justice, therefore, appointed a committee which was known as the Legal Education Committee. It consisted of representatives of the High Court, of the Bar Council and of the University, and that committee recommended that there should be a full-time law college where law is studied as a serious pursuit of learning, and that after passing the LL.B. after a two years' course of training in a full-time law college, one year should be devoted to training under experienced lawyers and thereafter one should be admitted to practise at the bar.

These recommendations were submitted by the Honourable the Chief Justice to the then Government, but unfortunately the Government for financial or other reasons did not propose to undertake the changes that were involved. Thereafter, the Chief Justice wrote to us this year stating that he was determined to raise the standard of legal education in Bombay with the help of the Bombay University and, if Government did not convert their part-time college into a full-time institution, he would take other steps to see that the quality of education was

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improved, and either ask the University to conduct a full-time law college or, if they did not agree, then the High Court would lay down the requisite standard for advocates and leave the candidates to prepare for the examination as best they might. But he was determined that there should be proper education and a proper standard for admission to the bar.

Thereafter a small committee consisting of a representative of the Bombay Government, of the High Court, of the Bar Council and of the University went into the whole question and they have now submitted a report part of which is now before the House as a change in the policy. The present part-time institution has failed in its purpose. We all know, those of us who have been through that school, how in the evening the students go there; as a matter of fact, I think several students do not even go there, but they are marked present by proxy by the courtesy of their friends and by a very indulgent professor turning a deaf ear and after this kind of perfunctory training and reading a few synopses, or summary text-books and sketches they get through an examination. It is necessary that law should be studied in a full-time law college under able and competent professors. It is not a matter, as I began by saying, only of professional interest, but has far deeper consequences on society. Government, therefore, propose that the present part-time institution should be converted into a full time college. I may assure the House that we do not expect that there will be any financial deficits. During the last 40 years, Government have got as much as Rs. 4,38,000 by way of profits from the law school, and it is one of the grievances of the Honourable the Chief Justice that this money ought to be devoted to the task of education and that Government had not dealt fairly with this problem. I am sure that in this House, knowing as I do the views of the honourable member sitting opposite to me, who has written a series of articles on this subject which are in my file but which I do not want to trouble the House by reading—I am referring to Professor Davar who has written half a dozen articles in the *Bombay Chronicle* advocating this reform—there will be strong support to this motion. In view of the fact that today is the last day of the session and honourable members are desirous to bring these proceedings to a close early, I do not propose to occupy the House very long. I can assure the honourable members that this is a reform which has been long outstanding. We hope that in future our graduates in law will have the benefit of proper instruction in this important subject under competent professors. It has been the greatest drawback of this province that because we have not had a full-time law college we have no jurists trained in our province. We may have some very eminent lawyers but I can safely say that barring a few honourable exceptions we have had no jurists in this province. Most of that work is either done in Madras or supplied by Bengal and that is due to the fact that they devote far greater time to the study of law than is devoted in our province. To remedy this grievance, we have

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determined to convert the present law college into a full-time institution. It is not necessary to go into the details of this scheme at this stage. We propose this year to have a full-time principal and one full-time professor and there will be 8 part-time professors. Boys who have taken the intermediate degree will be admitted into the college and will undergo a course of instruction for two years and a further practical training for one year—reading in an advocate's chamber. That is the proposal that is recommended by the Legal Education Committee to which I have made a reference.

Sir, I would commend this proposal to the House in the interest of legal education in this province and also in the interest of society, because the well-being of a society depends to a great extent on the proper administration of justice and of the law of the country, of which lawyers form, as we know only too well, a very important part.

Professor SOHRAB R. DAVAR (Bombay City cum Bombay Suburban District) : Sir, I rise to congratulate my friend the Honourable Mr. Kher on behalf of myself and many other lawyers who thought with me always that our system of legal education was defective. I also must say that many thanks are due to our present Chief Justice for having taken up that strong attitude which he has taken on this occasion. My good old friend the Honourable Mr. Kher has talked about my articles in the *Bombay Chronicle* on the subject ; but he is a very modest gentleman and I may remind him of his journal, namely, the "Bombay Law Journal" of which he was one of the editors. In those early days, I had the honour of being on its editorial committee. In that Journal also I wrote numerous articles on various legal subjects. In one of the articles which appears under my initials in the issue of that journal of September, 1927, I advocated identically the same reforms which have been now accepted. But in those days when I wrote that article in my honourable friend's journal as well as in the *Bombay Chronicle*, I was assailed, I was rebuked and I was laughed at by many lawyers who thought that their vested interests in one form or another were at stake. Sir, the position of the present Law College has been graphically described by my honourable friend. A young man has to spend two good years of his life after Intermediate on a fruitless course of B.A. This course of B.A. leads him nowhere and he has to waste most of his time on subjects which are of no use to him in the legal profession. When he has finished this fruitless course he is again diverted to a law college for two more years. For the whole of the day he is free to do what he likes. For only one hour in the evening he is expected to attend the law college lectures. The professors, being part-time professors, are generally freshers either from England or from those who have passed their law examination in India. As freshers, generally they have no practical experience of law, neither have they in most cases deep learning, in the real sense of the term, of the subjects they were teaching and of which they were given the title of "professors". Thus the graduate students knew as much almost as the professors who came to teach and no wonder that some of them

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shouted their presence from the back benches and left before lectures were finished. When it came to examination, the answers were so miserable that the examiner was puzzled as to what was to be done, whether to fail all or to somehow pass 10 to 20 per cent. I have myself felt like that as an examiner in some of the examinations. Besides Bombay I have examined for various other universities all over India. In case of some universities when I started examining I found the stuff was so poor—I may mention that I have a reputation of being a lenient examiner—that I could only pass 10 per cent. If I sent out that result, I knew that I would not only be condemned by the Senate that appointed me, I may not only be called a butcher, but some of the national papers would flare up. That was the fear under which I had to work and when I consulted my colleagues I found that they were also working under the same difficulties. So, what we did was to grace them freely with a view to bring up the result to somewhere about 25 per cent. Thus about 15 per cent. of incompetent men had to be let loose as duly qualified. This is a scandal which is being practised all round. That is one of the important reasons why our graduate is a failure in majority of cases. A few brilliant exceptions may be pointed out by those who are in favour of this type of education, but such brilliant cases of success are to be found even among those without education. Have we not among us first class Hakims and Vaidis who have shown exceptional brilliance without being trained? But I am talking of the general run of mankind, I mean the mediocre students and they are 999 out of a thousand who have to be lifted to a certain level to be of the best use to the society and the country. That has been my ideal as a professor and I have always kept that ideal in the forefront, namely, that examination is only a means to an end, an encouragement to acquisition of knowledge. What is really wanted is knowledge and perfect training that qualifies a young man to be a successful citizen in that walk of life which he enters. When I was a law student I always wondered why this handicap of wasting four years to become an arts graduate was placed on Indian students in India whereas in England any one could become a solicitor or a barrister immediately after passing his matriculation and if he had not passed the matriculation, the Bar as well as the Incorporated Law Society had its own entrance examination where they tested the student only in the set of subjects which were useful in the legal profession and tested him on a fairly high standard. That is so in our commercial line of studies also. For chartered accountants' examination a special entrance test for those who have not passed matriculation is held. Many students prefer to pass matriculation, as the entrance test of the professional board is stiffer.

12 noon.

So, it is with other examination boards in our line. I wonder why the handicap of being a B.A. should be imposed on the Indian youths wishing to take up the legal profession.

The other point which I want to place before the House concerns my personal experience in England. While I was there as a law student, I had 35 Indian fellow students with me keeping terms in the same Inn.

[Prof. Sohrab R. Davar]

They used to put me in the forefront when any grievance had to be redressed. Between 1907 and 1910, there was considerable excitement in England due to a political murder by an Indian student. The result was that instead of being pampered and treated with kindness, the students from India were looked upon with contempt. Taking advantage of this situation, retired Anglo-Indians of the Indian Civil Service cadre poisoned the ears of the Masters of the Inns of Court with the result that though till then Indian matriculates were allowed to keep terms in the Inns of Court, the Inns began to insist on admitting only graduates from India. I have watched in England how English youths get on. After receiving a general education, they enter life. The formative period of life commences at 16 or 17 and at the age of 21 the brain begins to crystallise. (*An Honourable Member*: Fossilise.) The brain begins to crystallise, because it has already developed to a given extent. (*An Honourable Member*: Brain keeps on developing.) Yes, that was so in the case of Lord MacNaughten whose brain kept on developing even after the age of 80. But we are not all Lord MacNaughtens. Generally, as I said before, the formative period commences at 16 or 17. If at that age a youth begins to undergo a training in law and places himself under a senior lawyer, at the age of 21 he will turn out a much better lawyer than a graduate who takes up law study after spending so much of his best time and money. That is why I feel that this infatuation for taking a B.A. degree should be discouraged. I may give an illustration. A Marwari, for instance, makes a best banker in spite of absence of education, because from his very childhood he studies banking practically under the tutelage of his parents. During his formative period of life he gets his commercial training and directly becomes a banker. If you permit me, I shall give my own personal example, though with some reluctance. My commercial training began when I was 8 or 9 years old. My grandfather was a retired merchant, my father was a merchant and my uncle was a merchant. The result was that I was in the heart of business, since I was born. My grandfather during his retirement used to call me to his side and give me indirect lectures in the course of his conversation as to what business he did, where he succeeded and where he failed and the reason why. The result was that when I went to study commerce in England I found no difficulty in following the lectures. I wish thus to emphasise that our youths should get into some profession during their formative period of life without wasting time and money on academic degrees.

Coming to my own college, I will give you instances about my experience. I have students in my college who hail from all parts of India, Burma and Ceylon. I have spent 38 good years of my life in teaching. All these students have come under my close observation during these last 38 years. Today some of them are prominent merchants of whom many are members of the Managing Committee of the Indian Merchants'

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Chamber ; there is at least one member here who was my student ; and there are some who are my colleagues in the Corporation. I have had the pleasure of being professor of Mercantile Law and Business Organisation in the Government College. Nearly 60 graduates, every year, attend my college while the rest are undergraduates. In spite of that during the last ten years, I do not remember a single case of a graduate getting "honours" in our examinations. Whereas I have invariably found that undergraduates come off very well with honours. That is because the graduate comes in rather too late in life to undergo training in commerce.

Coming to the motion before the House, the scheme proposed is not only important but is decidedly a great improvement on the one at present subsisting. We must admit boys in the Law College as early as possible. Our boys should not wait till they take the B.A. degree. Such higher studies should not be forced upon them. We have known of people who have gone to England after taking their degrees in arts and law for higher studies in law. What is the result ? After spending 10 to 12 years in all these studies, they are not able to do any practical work. On the other hand, the solicitors, who get practical training for two or three years and pass their examinations are able, soon after they pass their examination, to practise and put in better work than Barristers. What I once again emphasise is that they should get their practical training or experience during their formative period. With these words, I wholeheartedly support the resolution before the House.

Mr. S. C. JOSHI : Sir, I am fully alive to the fact that members are anxious to finish this debate. I will not take much time of the honourable House. I shall be failing in my duty if I do not give my wholehearted support to the resolution moved by the Honourable Prime Minister. This reform is long overdue and it ought to have taken place 30 years ago. Now, at any rate, it is proper that Government have come forward to give effect to this reform. Government may be losing some income from the college. This scheme owes its inception to three personalities, of whom one is the Prime Minister. Immediately he became a member of the Bar Council, the question was taken up by him before the Bar Council Committee. The other two personages are the Vice-Chancellor of the Bombay University, and the Honourable the Chief Justice of the Bombay High Court. The University also deserves credit for accepting this proposal, because the University will be accepting that the LL.B. degree would hereafter have merely an academic importance. Up to now, an LL.B. was entitled, as a matter of right, to get a *sanad* to practise in any court. Hereafter, he will not be so entitled ; he will have to undergo a practical training under some senior for a period and then pass the test of the Bar Council. The other important change that is made in this scheme is, that it is not necessary to become a graduate for appearing for the law examination. Even if the minimum qualification were further

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lowered down to matriculation, I think it would not seriously affect the legal study. I myself have had the experience for the last 18 years of teaching students who are merely matriculates, and I have found that they are in a position to follow the law course. Of course, simultaneously, they must have further instruction in English and some other subjects other than law. I have also had the experience of teaching students for the LL.B. examination in the Law College, and I have found that the minimum qualification laid down now, namely, the Intermediate examination, would not be too low. Even a lower qualification would be enough. On the whole however the scheme is a very good one, and I give my whole-hearted support to it.

Mr. N. D. DEODHIEKAR (Thana *cum* Nasik *cum* Ahmednagar): Sir, I rise to express my disapproval of the method in which Government seeks our approval to its policy of inaugurating a full-time college. It would have been much better if a detailed and exhaustive note had been given along with the resolution, so that we might have known what the details of the scheme are, and what its cost would be. When once we start a full-time college, we would require a college building, a hostel building, residential quarters for principal and superintendents, library, gymkhana, and other things. These would naturally tend to make education more costly, although the policy of Government ought to be, as expressed by them, to cheapen education. We know, Sir, that up till now, under the existing system, poor students used to come to Bombay, engage themselves somewhere on part-time service, attend the Law College in the evening and get the necessary qualification for appearing for the university examination in law. Although their knowledge was not very deep as was complained, yet they did pass the tests with good percentage of marks—due perhaps to the kind-heartedness of examiners like Professor Davar. But generally they are required to get 50 per cent. of the marks.

My suggestion is that Government should have a policy of having two examinations, one for those who would go to the mofussil courts and work there, and the other for those who want to practise in the High Court or big cities. At present, we have two courses in the medical line, M.B.B.S. and L.C.P.S. I should like Government to consider this suggestion.

Dr. G. S. MAHAJANI (Poona *cum* Satara): Sir, the main features of the scheme are four. Firstly, the avenue of admission to the legal profession through the High Court Pleaders' Examination is being closed down. Secondly, instruction in law is now made a full-time course. Thirdly, provision is to be made for practical training after the obtaining of a degree in law. Fourthly, the entrance qualification for the LL.B. examination is being lowered down to the Intermediate standard. The Academic Council and the Syndicate have whole-heartedly accepted this scheme. I also join my honourable friends Mr. Joshi and

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Professor Davar in blessing it. I feel it my duty, however, to bring to the notice of this House that there exists in the University a body of opinion—not very strong, otherwise it would have made itself felt when the discussion was going on in the Academic Council—but there exists a body of opinion which views with misgivings this lowering of the standard for admission, namely, from a graduate's degree to the Intermediate. Only yesterday the Honourable the Prime Minister gave the analogy of what obtains in the Madras Presidency. They have certainly a full-time law college, but, even there, they do not allow students immediately after passing the Intermediate examination to join the Law College. They must become graduates first. I myself share the misgivings of that small body of opinion in the University to which I referred. In any case, I would advise parents, if it came to that, not to allow their wards to take up the legal course without graduating in a college. I shall state my reasons briefly. I agree with everything that Professor Davar has said on the floor of this House about the brain getting crystallized and the necessity of giving experience in the formative period of the student. I do not deny that as you grow in years, your receptive capacity does go down. At the same time, there are advantages in getting a wide general training. Just consider the case of our own Ministers, say, the Honourable Mr. Munshi and the Honourable the Prime Minister. They would not have been what they are to-day but for the general training they had in their university education. Without that education, how could the Honourable Mr. Munshi have got that passage which he quoted in the Lower House, from Dante's *Inferno*? The legal profession may be a specialized profession, but, as we see, in all countries of the world it is the people who are engaged in that profession that are to the forefront of public life. They have been taking part in public life and they have, so to say, been guiding the destinies of their nations. It is not enough for a man engaged in the legal profession to have education only in law. He must have a wide general training: otherwise, he will not—I do not say, be a perfect figure—he will not be able to contribute as much to the advancement of the nation as he can with that training. Personally, I feel that a lawyer should be acquainted with Shakespeare. He may not need the ingenuity of Portia: that is not always necessary for success in the legal profession; but he must know what Matthew Arnold says about the "idea of a university". In fact, there is no department of life which is not touched by law, and I and people of my belief hold to this view, that any one who wants to take up the legal profession, unless he wants to remain as a lawyer without taking part in public life, will be better advised to become a graduate first. Now, Sir, I have given expression to this view only with one object in view. The University has not yet put its final seal on this. The Academic Council has approved of it, but the supreme body in the University has not yet considered the question. It will consider it next month. It is extremely improbable that the entrance qualification will be raised by the Senate from

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Intermediate to a graduate's degree. But I think the rules governing admissions will be entirely in the hands of the institution concerned, and the principal of the new rejuvenated law college, so to say, would be better advised in selecting graduates in preference to intermediate students.

I shall give you another reason in support of the view I am pressing. The University has recently introduced bifurcation immediately after the matriculation examination. Even the short experience of the bifurcation at that early stage has revealed so many defects that responsible opinion now is getting firm in the University that the bifurcation scheme has not proved a success, and you need not be surprised if, in the course of a year or two, the University reverses that policy and brings the bifurcation scheme again at the intermediate rather than at the first year. I shall tell you what happens. A boy passes his matriculation examination at the age of 16. Then the question before him is, whether he should take up Science or Arts. He is not able to make up his choice; he goes and asks the principal. Naturally, the principal cannot take the responsibility of deciding the whole career of the boy. Most of the parents are ignorant; they also do not know how to decide. Why, even at the B.A. stage students make up their minds, several of them, on such considerations as that there are some books available free on a particular subject and therefore they take up that subject. My point is that at the early age of 16 it is impossible for a boy to make his choice one way or other. Cases have come to light now at the end of this year of so many students wanting to change from one branch to the other. And the University has recently made a special provision for this year and the next that students who take up science after matriculation and who pass the first year examination but who want to change over to the arts side should, after being examined in two additional subjects, namely, administration and second language, be allowed to change over. These are transitional provisions, but the University felt it necessary that these changes should be made. These indicate that bifurcation at that early stage is undesirable, because it clearly debars the boy from making his choice at a later stage. Now, these considerations apply, I admit, in a lesser degree to the present case, because you introduce bifurcation for law at the intermediate stage. But, in view of these, I would suggest that it would be better if the qualification for entrance was kept at the B.A. degree.

One more point. After all, how many people succeed in the legal profession? Even supposing that you give them practical training, most of them later on find it necessary to take to the teaching profession, and some become clerks in insurance offices, and so on. Now, if a person is not a graduate, the teaching profession is practically closed to him, but if he is a graduate, naturally, he can take to the teaching or any allied line. We have now come to a stage when training up to the graduate standard has become the minimum general standard for most walks of life.

[Dr. G. S. Mahajani]

These are the only considerations which I wanted to put before this House, without intending to suggest an amendment. I join my honourable friends in blessing this scheme and congratulating Government on proceeding with it at such a quick pace; but I felt it my duty to bring to the notice of this House the other view regarding one of the four main features of the scheme.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Mr. President, I compliment the Prime Minister on bringing forward this motion. Sir, I heard everything that the previous speakers said. Two of the students of the Law College gave a talk at the Rotary Club of Bombay and there I knew what the facts were and what the defects were in the present system. I compliment the Prime Minister on having removed those defects. A man on our staff is attending the Law College only during the time when he is free. By earning something from there, he attends the Law College and he expects to pass the examination because he thinks that he can pass. Would it not be possible for the Honourable the Prime Minister or those who are in charge to give concessions to such students as such concessions would give the students some facility so that they could serve somewhere, especially as the ultimate result lies with the Examiners who will decide whether that man passes or not? Suppose a man attends the college like that and then he passes the examination better than those who attend the whole time, would it be fair not to grant such concessions to such students, particularly because the Congress Ministry always said that they are for the poor and that they will do what they can to raise the level of the poor and so I think something ought to be done in that connection.

The Honourable Mr. B. G. KHIER: Sir, I do not think it is necessary for me to make any lengthy reply. I shall be the last person to deny the value of general culture to anybody who wants to be a successful lawyer. There is no subject on earth a knowledge of which does not come in useful to anybody who wants to succeed at the Bar, but that is not achieved by spending the two years that the honourable member Dr. Mahajani wants a boy to spend in an Arts College. That is the whole point. Sir, we know that four years in an Arts College, as the honourable member Professor Davar pointed out, drain the energy of the boy so much that by the time he is asked to study any serious subject, his enthusiasm, his receptivity, as the honourable member Dr. Mahajani put it, is definitely below par and that is the reason why we find very few distinguished lawyers and jurists in our midst. It is necessary to have a sound basic knowledge. In England, as you know, it is open for the London Matric or the Cambridge Senior to take the LL.B. at Cambridge without taking the B.A. degree. It is only in this country that law is a post-graduate course and the boy must be a B.A. before he can qualify himself for the LL.B. I do not at all see that the two years more that the boy will be compelled to spend in an arts college will really be of much use to him in acquiring additional culture and additional knowledge so as to make him better

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fitted for the pursuit of law as a career, but we are now dealing with the minimum knowledge that a student must have before he gets admission into the Law College. Whatever may be the case in England, where the boy studies in his own mother-tongue, namely, English, throughout till he passes his Matriculation, here in India there are many handicaps. Difficult subjects like Equity, Succession and Transfer of Property are not properly appreciated unless the boy's intellect is mature. In the Lower House there was a suggestion that Matriculates of Bombay like London Matriculates should be allowed to enter this Law College and study, but I was opposed to it because I do not think that bifurcation at that early stage would be of any advantage, but surely our Intermediate students who are usually about the age of 18 years are quite capable of receiving instruction in law. They are still fresh, they have got sufficient fund of general knowledge and, if they are given full-time tuition under proper tutors in the subject of law, I am sure our legal study will improve. I am sorry, therefore, I do not appreciate the arguments advanced by the honourable member Dr. Mahajani. As he has observed, the Syndicate and the Council of Academy have blessed this scheme. It is possible that Principals of Arts Colleges may look at this scheme with a little suspicion. They may think that it may come in the way of the development of Arts Colleges. That is an utterly wrong way of looking at things.

Dr. G. S. MAHAJANI : I gave the instance of Madras, by way of an example.

The Honourable Mr. B. G. KHER : I am not attributing any motive. I am making only a general observation that it is possible that there may be a sort of suspicion in the minds of some, but that suspicion is utterly unfounded. On the contrary, I think that those who will take up the Arts courses will do so with the full knowledge of what they are doing and they will be more serious and earnest students of the Arts colleges. I do not think that merely taking a B.A. course in an Arts College improves the boy's position for receiving legal education. The honourable member Mr. Deodhekar brought in the usual arguments of poverty and democracy on this question ; but, Sir, this is not a subject which is being considered for the first time in this country. There have always been two opinions on it. I have taken considerable trouble, as the honourable member Mr. Joshi observed, in studying this question, and we took long before we came to the conclusion that we must now make this change. We have had this stereotyped instruction for so long.

The argument has been advanced that you will be keeping poor boys out of this profession, if admission to the college is to be allowed only after passing the Intermediate examination, and therefore a matriculate should be allowed admission. This was one of the arguments which was brought forward by the honourable member Mr. Chundrigar in the

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Lower House. Sir, poor boys have always found their way to the top in every country. Poor boys will not be at a disadvantage under this reform. Look at England. What is the use of saying that you will not have good lawyers, you will not have brilliant men if you make this change, and that if such boys are admitted into the law college they may become good lawyers, but they may not take part in public life? The whole history of English public life will give the lie to this proposition. The most prominent public men in England have been trained at the Bar, and many of them have never been to the University. And even if they join the University, as at Cambridge, you can take your LL.B. as a graduate course. After matriculation, you go straight to Cambridge, and you take the LL.B. degree just as you take the B.A. degree. I do not think the other arguments and fears are justified. We are making education cheaper than it is today, so far as this avenue is concerned.

As regards the other avenue, the Bar Council's examination, it is not a matter in the hands of Government at all. It is in the hands of the Bar Council and of the High Court to continue or to stop the Bar Council admission to the Bar in the High Court. They have perhaps rightly come to the conclusion that out of 500 or 600 about 20 pass every year, and they feel that law is not properly studied by these students. If they, therefore, desire to discontinue it, it is not a matter with which either Government or this House can in any way interfere.

I therefore, on the whole, think that this proposition has received more approval than disapproval from the honourable members who have spoken on it, and I commend it to the House.

Motion put, and agreed to.

Experiments in Rayon Industry.

The Honourable Mr. A. B. LATTHE: Sir, the resolution which stands in the name of my honourable colleague Mr. Patil is as follows:

"This Council approves of the scheme embodied in the Budget Blue Book for 1938-39 (page 185) for making experiments for introducing the rayon (artificial silk) industry in this Province at a cost not exceeding Rs. 71,000."

Question proposed.

The Honourable Mr. A. B. LATTHE: Honourable members might remember that this proposal was placed before the two Houses before the budget was presented. But later on, as we learnt that the Indian Central Cotton Committee were making certain experiments, we thought that we had better postpone this subject till our enquiries regarding the experiments being made by the Indian Central Cotton Committee were complete. We now find that what the Indian Central Cotton Committee is doing is to make certain experiments with regard to the possibilities of manufacturing rayon from cotton and cotton waste. Now, experience everywhere is that rayon made of short staple cotton and cotton waste,

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though good in quality, is very much more costly than rayon manufactured from wood pulp. The wood pulp experiment therefore has got to be undertaken if this industry is to flourish in this country. The Indian Central Cotton Committee, as it is concerned only with cotton, is not likely to take up this experiment. This is exactly the reason why we reconsidered the matter and thought that the Government must undertake this experiment.

As honourable members are aware, we have been importing very, very large quantities of artificial silk or rayon into this country during the last few years. There have been weaving factories here for weaving artificial silk, but we have to import the yarn; and if we can successfully manufacture that yarn at cheap prices, we shall be doing a great service to Indian industry, and therefore we are advised that this is an experiment which is worth making, which is likely to succeed, and which is likely to save a lot of money to India. I hope the House will accept the motion.

Mr. B. N. KARANJIA (Bombay City *cum* Bombay Suburban District): Mr. President, my heart is full of joy today because of these two important motions that have been brought here by our popular Government. Only these two motions will bring prosperity to India and I compliment the Government from the bottom of my heart. Last time, when the Honourable the Finance Minister told us that he wanted to withdraw the budget grant of Rs. 71,000, on the ground that the Central Government were moving in the matter, I protested against it and told that this was not fair and I pointed out that the Central Government were not going to do anything in this matter. I told him from my experience of 35 years in this industry, that Government of India have been simply trying and trying uselessly in the Dehra Dun Institute from where they send only literature and practically nothing is done from there up to now. Even our Indian Merchants' Chamber protested and protested to the Central Government that this industry should be started by Government and then the work of experiments was entrusted to the Indian Central Cotton Committee where experiments are carried on now. But they also did not achieve anything substantial in spite of strenuous efforts of eminent men like Sir Purushottamdas Thakurdas and Nazir Ahmed. They tried and engaged men who had passed some tests in this particular line in Germany, only to make experiments from cotton and cotton waste and short staple cotton. Now, what we are doing in India is that after 35 years we are trying to follow the improvements that have taken place in the world in this industry. Artificial silk was first manufactured in 1903 by Switzerland, then England followed and then Italy and France and last America followed and they used to manufacture it at the minimum price of Re. 1-8-0 per pound. Then what happened! Japan came forward and manufactured and today is in a position to manufacture artificial silk yarn at 5 annas a pound. They sell it in Japan at 6 annas a pound and in our market today thousands of cases are imported only from Japan and only a very small quantity is imported from other countries which is sold at Tamba Kata in Bombay.

[Mr. B. N. Karanjia]

My fear is that these foreign countries are advancing and progressing very rapidly and after this artificial silk yarn they have now invented staple fibre. Artificial silk yarn has now been used enormously and I think in course of time when we succeed in manufacturing artificial silk yarn, we should also take in hand the experiment of manufacturing staple fibre. I know there is a process by which artificial silk yarn can be turned into staple fibre. After experimenting for years together, the Indian Central Cotton Committee have come to the conclusion that it is costly to manufacture artificial yarn from cotton. Then, Sir, it ought to be done from wood pulp. Here we have got even in Bombay, in the suburbs, we have got lakhs of acres of land which can produce this sort of wood and such wood grows near our Pawai Lake. Some years back one of the solicitors tried his level best to manufacture art silk yarn from wood pulp but he received no encouragement either from the Government or from the people and the scheme failed. This man brought a sample and his cost was about Rs. 3-12-0 per pound. If some encouragement had been given to him at that time, he would have been now in a position to compete with the other countries. Therefore, I think it is high time that we should pursue this matter and I request the Finance Minister not to give only Rs. 71,000 for this purpose but he should give Rs. 71 lakhs. I assure him that during two or three years Government would be able to make three crores out of it. I am positive about it because the staple fibre is recently introduced, but Government can manufacture this staple fibre from artificial silk yarn in course of time. In the Madras Presidency this artificial silk yarn is used to such an extent that there 10 lakhs of people are running hand-loom. In Bombay two years ago there was no spinning or weaving of this artificial silk yarn. They used it only for mixing purposes and used one or two threads for some sarees or borders. Now, there are about 2,000 looms working in Bombay and about 2,000 more looms are in the course of erection. I hope that if the whole of India were to buy this artificial silk, I think instead of spending only Rs. 71,000 on this industry we ought to spend 71 lakhs of rupees and I am sure the commercial community will come forward and help the Finance Minister in this scheme.

Sir, I am glad that today's three resolutions excepting the resolution about the Law College—of course, that is also in the interest of the country—are such as to promote the interest of our masses and the wealth and prosperity of our country. I heartily congratulate the Government for having put forward such schemes instead of putting forward schemes like the Prohibition which is in my mind a wild goose chase.

Dr. K. A. HAMIED (Bombay City *cum* Bombay Suburban District): Sir, I also congratulate the Honourable Minister and the Bombay Government for their desire to promote the industries in this country, especially in this province. But, Sir, as the Government of Bombay is composed of non-technical men, I submit that the advice given to the Government of Bombay for the expenditure of Rs. 71,000 on making experiments for

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manufacturing artificial silk is entirely wrong. The artificial silk industry is a child's play to every scientist. Everywhere in the world, chemists know how artificial silk is being made. I do not think there is any necessity for any experiment on this subject. It has passed the stage of experimentation. You must decide to start the industry and at once you can start it within a few months without any experiments. I, therefore, do not understand what is meant by the words "making of experiments". It is true that there are some industries which require experimentation. For instance, the Government of Bombay appointed the Alcohol Committee for the purpose of converting alcohol into power alcohol. The Committee has submitted a report. I have unfortunately differed from the verdict of the committee because, although alcohol is being converted in many countries of the world into power alcohol, the process of conversion, the process of manufacture of alcohol into power alcohol, is kept strictly guarded. Although the process is given in books, it is impossible to find out exactly how alcohol is converted into power alcohol. Therefore, Sir, for such an industry the process of which is being secretly guarded, experiments by scientists in this country are necessary to give the Government correct advice as to whether alcohol can be converted into Power Alcohol or not. But it is not necessary at all to make experiments for introducing the rayon industry. The methods of manufacture are known to every chemist and scientist and no experiments are necessary. I challenge the decision of the Indian Central Cotton Committee on the necessity of experimentations for the manufacture of artificial silk. I undertake upon myself to establish a silk industry within six months. I can start here 10 factories for the manufacture of artificial silk. It is not the experiments which we need but capital for starting such industries, and if the Bombay Government and the millionaires of this town are ready to bring forth the capital, I can guarantee that within one year you will have all the artificial silk necessary in this Province which is today being imported. Therefore, Sir, I beg to advise the Bombay Government that this amount of Rs. 71,000 will be entirely wasted. It will be spent here and there by one department or the other without any appreciable results. If the Government of Bombay desires to start this industry, I am prepared to give any advice free of charge and without any obligation.

As one who always supports the Government, I do not wish to oppose the motion. With these words, however, I beg to warn and advise the Bombay Government that this money will be entirely wasted, which they should see is not done.

Mr. DADUBHAI P. DESAI (Ahmedabad *cum* Kaira) : Sir, I congratulate the Government on this resolution. We, who have something to do with the cotton grading or whose interests are in the progress of cotton industries in India, would just like to suggest to this Government that after all the Government need not rely upon the experiments of the

[Mr. Dadubhai P. Desai]

Indian Cotton Committee. We know how that committee functions and we have no confidence in the committee and so I just request the Government to try again or try on their own account from this sum of Rs. 71,000 experiments to manufacture rayon from cotton waste and short staple cotton. Rayon is a great rival of cotton and our country is the biggest cotton producer next to United States and if experiments are directly made from wood pulp, I know that rayon could be manufactured from wood pulp also and our Presidency, which is a very large cotton centre and cotton market also, should concentrate on the manufacture of rayon from the cotton waste and that would rather convert the waste cotton, which is being at present sold very cheap, into a very useful commodity and at the same time will not prove to be a rival of the cotton industry or ruin the cotton growing industry which is one of the staple industries of this Province.

With these remarks, Sir, I support the resolution and request the Minister not to rely on the Indian Cotton Committee's experiments because that committee is—of course, I do not know how that committee functions—so far as I could see and so far as I have followed the working of the committee and though maintained by us from our funds, that is, we have to pay so much for every cotton bale for the maintenance of that committee and I have again and again and repeatedly said that that committee has been of no use and will remain so unless it is overhauled altogether—so not to rely upon the experiments of that committee, but take up experiments on their own account, on their own responsibility and carry on experiments on cotton waste.

Here, I refer to the honourable member Dr. Hamied's statement. I know there are Indian students who are cotton experts and who studied these matters in Europe and even in Japan. They can manufacture rayon from wood pulp or cotton. Some of them are employed in mills. All the same, the control of a responsible body like Government is necessary for the utilisation of waste products. It would be very costly to manufacture rayon from wood pulp in this province. [*An Honourable Member*: No, no.] If it had been possible, the industry would have been started in this Presidency long ago. Cotton waste can be got in abundance. There are 60 mills in Bombay and there are 60 mills in Ahmedabad. There is ample cotton waste. They are either blown away or sold at one anna per pound. From that rayon can be manufactured. It is a material which is practically wasted, and which is exported to other countries where they manufacture rayon out of it. If the Honourable Minister wishes, he can experiment both on cotton waste and wood pulp. I have no objection but cotton waste should not be left out of consideration. With these words, I support the motion.

Mr. FREDERICK STONES (Presidency): Sir, I do not intend to inflict any speech except to give my support to the resolution. While doing so, I would like to make one or two observations with reference to certain points raised during the debate. First of all, how to manufacture

[Mr. Frederick Stones]

artificial silk by the Viscose process is known in India, but what we wish to ascertain is whether Rayon and Staple Fibre can be produced on a sound economic basis in this country. We know that artificial silk can be spun in India, but whether it can be produced on an economic basis is not yet known. The money for development is there if the economic production can be proved.

There are two principal forms of Artificial Silk—one is Acetate Silk and the other is Viscose Silk. Though the Viscose process is known in India, unfortunately the raw material for the Industry is not available in India. If we can get the raw material in India we can produce it on an economic basis. Research is going on in regard to the manufacture of Acetate Silk. I commend the resolution to the House and I am sure the money spent is not at all wasted. The Indian Central Cotton Committee is carrying on research, with a view to utilising cheap cotton and cotton waste; the Central Government is taking an interest in the matter and the Government of Bombay is now proposing to co-operate with a view to utilising other supplies of cellulose.

I have been connected with Government institutions for many years, but I have never found so much co-operation in any other scheme as exists to-day between the Indian Central Cotton Committee, the Central Government and the Bombay Government to secure the economic manufacture of Artificial Silk on a commercial basis. If the experiment to manufacture Artificial Silk on a commercial basis proves successful, there are capitalists ready to put their money in the industry. I have no hesitation in commending this resolution to the House.

As for the points raised by the honourable member Dr. Hamied, I shall have a talk with him privately. I will only say that there is plenty of cellulose in India while there is a potential famine approaching for this material the world over. I mentioned this in Poona during the Council session and I again mention it to-day. The amount of research work that has been done in this country on that subject is ridiculously small. I beg of this House to pass this resolution and request the Honourable Minister in charge and the Finance Minister also to see that they push the scheme forward with all the energy that they can bring to bear upon it. I have no hesitation in recommending this resolution to the House.

The Honourable Mr. A. B. LATTHE: Sir, I do not think that I should take up any time of the House now on this subject. I can assure the honourable member Dr. Hamied that if he is so confident about convincing us that the experiment can be dispensed with, we shall be the first to take advantage of his advice. I am very glad that the discussion today has disclosed to us some knowledge of the processes and methods in the possession of the honourable member Dr. Hamied. But, as a matter of fact, although I was very attentively hearing him he did not say that he knew processes which were economical. He said he could manufacture artificial silk. It may be that he meant that he could do it economically, but he was only saying all the time that artificial silk could be manufactured. I am not speaking in a spirit of criticism. We would

[Mr. A. B. Latthe]

welcome his assistance, as we should that of everybody else. We wish that with the co-operation of the legislature it will be possible to push forward the attempt to introduce this great industry in our country as quickly as possible.

Resolution put, and agreed to.

BILL No. XVII OF 1933 (AN ACT TO AMEND THE CITY OF BOMBAY MUNICIPAL ACT, 1888).

(Message from the Legislative Assembly.)

The Honourable the PRESIDENT: I have received this intimation from the Assembly:

In accordance with Rule 21-I (1) of the Bombay Legislative Assembly Rules, I am directed to inform you that the amendments made by the Legislative Council in Bill No. XVII of 1933 (An Act to amend the City of Bombay Municipal Act, 1888) were taken into consideration by the Legislative Council at its meeting held on the 7th May 1933 and that the Legislative Assembly has agreed to the amendments.

BUSINESS OF THE HOUSE.

The Honourable Mr. B. G. KHER: Mr. President, Sir, there is no other business before the House, and the time has come when, after a protracted sessions, we are about to disperse. But before we do so, I think it is my duty to convey my sincere thanks to the honourable members of this House for the forbearance and patience with which they have treated us. I apologise to them for the inconvenience that had often been involuntarily caused to them by frequent adjournments or by having to work late,—and particularly last night up to 8-30 in the evening. We hope that gradually we shall be having proper agendas of business, so that it will be possible to adjust the convening of the Legislative Assembly and of this House at such times as will cause the least inconvenience to honourable members of this House, and having once met, it would not be necessary for it to adjourn for a few days and then meet again for a few days and again disperse, as had to be done this time. We hope to adjust all these affairs in a better manner. As honourable members know, the constitution is rather young; we are all learning. I consider it my duty to tender to all the honourable members our sincere appreciation of the forbearance they have shown and of the very great courtesy with which they have treated us and dealt with all the work before the House, and particularly of the patience that they have exercised in sitting, sometimes late and sometimes early, during the last four or five days when they have been put to a great deal of inconvenience. I thank them one and all for their kindness.

1 p.m.

PROROGATION OF THE COUNCIL.

The Honourable the PRESIDENT: I have now to intimate to the House that I have received a message from His Excellency the Governor that he is pleased to order, under section 62 (2) of the Government of India Act, 1935, that the present session of the Legislative Council be prorogued. The Council is accordingly prorogued.

APPENDIX 1.

L. A. BILL No. VIII OF 1938.

An Act to amend the Bombay Finance Act, 1932.

(As read for the third time and passed on the
3rd March 1938.)

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Bombay Finance (Amendment) Act, 1938.

(2) It shall come into force on the 31st March 1938.

2. *Amendment of section 2 of Bom. Act II of 1932.*—In sub-section (3) of section 2 of the Bombay Finance Act, 1932, (hereinafter called "the said Act") for the word "six" the word "seven" shall be substituted.

3. *Amendment of the Schedule to Part II of Bom. Act II of 1932.*—In the First Schedule to Part II of the said Act—

for the words—

"Six pies for each unit of energy consumed", the following shall be substituted, namely:—

"(1) In the city of Bombay, and in such areas as the Provincial Government may, by notification in the *Official Gazette*, specify in this behalf—nine pies for each unit of energy consumed, and

(2) In other areas—six pies for each unit of energy consumed."

4. *Amendment of section 15 of Bom. Act II of 1932.*—In sub-section (5) of section 15 of the said Act,—

(1) in clause (b), the figures "14" shall be deleted;

[Appendix 1—contd.]

(2) in clause (c) under Article 5 relating to "agreement or memorandum of an agreement"—

(a) in entry (aa) for the words "if relating to the sale", the words "if relating to the purchase or sale" shall be substituted and after the words "the value of the security", the words "at the time of its purchase or sale, as the case may be" shall be added;

(b) for entry (b), the following shall be substituted, namely:—

"(b) if relating to the purchase or sale of shares, scrips, stocks, bonds, debentures, debenture stocks or any other marketable security of a like nature in or of any incorporate company or other body corporate. Two annas for every Rs. 2,500 or part thereof of the value of the security at the time of its purchase or sale as the case may be."

(c) in entry (a) under "Exemptions" for the words "relating to the sale", the words "relating to the purchase or sale" shall be substituted;

(d) after entry (c) under "Exemptions", the following entry shall be added, namely:—

"(d) made in respect of the purchase or sale of a Government security or of a share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of any incorporate company or other body corporate, an entry relating to which is made in a clearance list which is duly stamped under Article 20A."

(3) in clause (c) under Article 43 relating to "Note or memorandum sent by a Broker or Agent to his principal"—

(i) for entry (b), the following shall be substituted, namely:—

"(b) of any share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature exceeding in value twenty rupees, not being a Government security. Two annas for every Rs. 2,500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be."

(ii) in entry (bb) after the words "the value of the security", the words "at the time of its purchase or sale, as the case may be" shall be added;

[Appendix I—concl'd.]

(iii) after entry (bb), the following shall be added, namely :—

“Exemption.

Note or memorandum sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of a Government security or a share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of an incorporate company or other body corporate, an entry relating to which is made in a clearance list which is duly stamped under Article 20A.”

(4) after clause (d), the following clause shall be inserted, namely :—

“(dd) after Article 20, the following Article shall be inserted, namely :—

<p>‘ 20A. Clearance list relating to the transactions for the purchase or sale by a member of a recognised stock exchange on his own account or on account of any other person, of a Government security or a share, scrip, stock bond, debenture, debenture stock or other marketable security of a like nature in or of an incorporate company or other body corporate submitted by such member to the clearing house of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925.</p>	<p>The sum of duties payable at the rates specified under Articles 5 and 43, as the case may be, in respect of each of the entries in such list on the value of the securities calculated at the making up price fixed in accordance with the rules made under the Bombay Securities Contracts Control Act, 1925.</p>
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Explanation.—For the purposes of this Article a clearance list shall mean a list of transactions required to be submitted to the clearing house by the members of a recognised stock exchange in accordance with the rules under the Bombay Securities Contracts Control Act, 1925.”

5. Amendment of Schedule to Part IV of Bom. Act II of 1932.—In the Schedule to Part IV of the said Act—

(i) the entries relating to Article 14 shall be deleted; and

(ii) in the entry in column I relating to Article 62 (c) (i) for the word “five” the word “ten” shall be substituted.

APPENDIX 2.

L. A. BILL No. IX OF 1933.

An Act to amend the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933.

(As read for the third time and passed on the
8th March 1938.)

Bom. IV of 1857. Bom. II of 1933. WHEREAS it is expedient to amend the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933, for certain purposes; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Tobacco (Amendment) Act, 1938.

2. *Amendment of section 11 of Bom. IV of 1857.*—In section 11 of the Tobacco Duty (Town of Bombay) Act, 1857 (hereinafter called the “Town Act”)—

(1) after the words “provisions of this Act”, the words “such license shall be subject to such terms and conditions as may be prescribed by rules made by the Provincial Government in this behalf” shall be inserted; and

(2) for the words “A fee of one rupee shall be paid for every such license” the following shall be substituted, namely:—

“Such fee as may be fixed by rules made by the Provincial Government in this behalf shall be levied for every such license, subject to the following maxima:—

				Rs.
(a) Superior tobacco	..	..	..	50
(b) Inferior tobacco	..	..	..	25

For the purposes of this section the Provincial Government may also by rules made in this behalf specify the varieties of tobacco which shall be classed as Superior and Inferior.”

3. *Amendment of section 1 of Bom. II of 1933.*—The provisions of the Bombay (District) Tobacco Act, 1933 (hereinafter called “the District Act”), continued in force up to and inclusive of the 31st day of March 1938 by Government Notification (Revenue Department) No. 480/28, dated the 31st March 1937, issued under paragraphs 6 and 14 (1) of the Government of India (Commencement and Transitory Provisions) Order, 1936, are hereby further continued in force by the deletion of the words “and shall remain in force for a period of four years” occurring in sub-section (3) of section 1 of that Act, subject to the modification hereinafter provided.

[Appendix 2—contd.]

4. *Insertion of new section 7A in Bom. II of 1933.*—After section 7 of the District Act, the following section shall be inserted, namely :—

“7A. Notwithstanding anything contained in section 7, the Provincial Government may in addition to the license fee leviable under the said section, levy also a tax at such rates, subject to such conditions and in such areas as may be prescribed, on any sale of tobacco on *ad valorem* basis not exceeding 50 per cent. of the price of such sale.”

5. *Amendment of section 27 of Bom. II of 1933.*—In sub-section (2) of section 27 of the District Act, after clause (c) the following clauses shall be added, namely :—

“(d) under section 7A prescribing the rates at which, the conditions subject to which and the areas in which a tax on sales of tobacco shall be levied ;

(e) for the purposes of the Schedule hereto annexed, prescribing the varieties of tobacco which shall be classed as Superior and Inferior tobacco.”

6. *Amendment of Schedule to Bom. II of 1933.*—For the Schedule to the District Act, the following shall be substituted, namely :—

“SCHEDULE.

(SECTION 7.)

License Fees.

	Ra.
Wholesale—	
Maximum rate	50
Retail or Hawker—	
(1) Maximum rate in any urban area which the Provincial Government may, by notification published in the Official Gazette, specify—	
Superior tobacco	50
Inferior tobacco	25
(2) Fixed rate in any other area	2
Broker—fixed rate	2”

7. *Saving.*—Nothing in this Act shall affect the validity, or the conditions or restrictions of a license granted under the Town Act or District Act before the commencement of this Act or any rights or liabilities accrued or incurred thereunder.

APPENDIX 3.

Schedule of further Demands for grants for the year 1938-39 submitted for the vote of the Legislative Assembly under No. 32-A of the Bombay Legislative Assembly Rules.

No. of further demand.	Minister in charge.	Service or administration to which the demand relates.	Head of account.	Amount.
				Rs.
1	Honourable the Prime Minister.	Education ..	37, Education ..	8,92,000
2	Honourable the Minister for Health (Medical, Public Health and Excise).	Medical Services ..	38, Medical ..	20,000
3	Honourable the Minister for Revenue, Rural Development and Agriculture.	Agriculture ..	40, Agriculture ..	1,52,500
4	Do.	Co-operation ..	42, Co-operation ..	27,500
5	Honourable the Minister for Local Self-Government (and Miscellaneous).	Industries ..	43, Industries ..	28,000
6	Honourable the Prime Minister.	Miscellaneous Departments.	47, Miscellaneous Departments.	5,600
7	Honourable the Minister for Public Works.	Civil Works ..	50, Civil Works ..	42,000
8	Do.	Bombay Development Scheme.	52, Bombay Development Scheme.	4,50,000
				16,17,600

FINANCE DEPARTMENT :

22nd March 1938.

[Appendix 3—contd.]

Details of further Demands for Grants for 1938-39.

—	Budget estimate for 1938-39.	Remarks.
	Rs.	
37, EDUCATION.		
E-GENERAL.		
<i>R—Miscellaneous.</i>		
Lump provision for new schemes of educational expansion and improvement	8,92,000	Fide note attached.
38, MEDICAL.		
D-MEDICAL COLLEGES AND SCHOOLS.		
<i>D-2 (5) Grants-in-aid, contributions, etc.—</i>		
Grants-in-aid to Ayurvedic and Unani teaching institutions	20,000	Fide note attached.
40, AGRICULTURE.		
A-AGRICULTURAL DEVELOPMENT.		
<i>A-2, Agricultural Propaganda—</i>		
Pay of Establishment	22,000	} Fide note attached.
Allowances, Honoraria, etc.	2,000	
Contingencies	49,500	
Lump provision	61,100	
Total ..	1,34,600	
<i>D. Agricultural Education and Research—</i>		
Pay of Officers	3,000	} Fide note attached.
Pay of Establishment	2,600	
Allowances, Honoraria, etc.	1,000	
Contingencies	9,300	
Deduct—Establishment charges recoverable from other Governments, Departments, etc.	— 8,600	
Total ..	7,300	

[Appendix 3—contd.]

	Budget estimate for 1938-39.	Remarks.
	Rs.	
G.—OTHER CHARGES.		
<i>G-1—Schemes partly or wholly subsidised by the Imperial Council of Agricultural Research.</i>		
<i>(N) Scheme for investigation into Striga attacks on Jowar Crops—</i>		
Pay of Establishment	2,400	} <i>Vide note attached.</i>
Allowances, Honoraria, etc.	600	
Contingencies	7,600	
Total	*10,600	
Grand Total	1,52,500	
42, CO-OPERATION.		
B—SUPERINTENDENCE.		
Pay of Establishment	22,400	} <i>Vide note attached.</i>
Allowances, Honoraria, etc.	9,800	
Contingencies	3,400	
Probable savings	-15,600	
Total	20,000	
C—GRANTS-IN-AID.		
<i>Grants-in-aid to village multi-purpose—</i>		
Co-operative Societies	7,500	} <i>Vide note attached.</i>
Grand Total	27,500	

*The following addition will be made under debt heads as a result of the inclusion of this grant in next year's budget :—

Other Account—

Deposit account of the grants made by the Imperial Council of Agricultural Research.

Scheme for investigation into *Striga* attacks on Jowar crops—

Charged Rs. 8,000

[Appendix 3—contd.]

	Budget estimate for 1938-39.	Remarks.	
	Rs.		
43, INDUSTRIES.			
A—INDUSTRIES.			
<i>A-4-Industrial Development—</i>			
A-4-(9)—Grant to the All-India Village Industries Association.	20,000	} <i>Vide note attached.</i>	
Total ..	20,000		
<i>A-8-Vocational Training of Middle class unemployed—</i>			
<i>A-8-(4)—Contingencies—</i>			
Other supplies and services	8,000		
Total ..	8,000		
Grand Total ..	28,000		
47, MISCELLANEOUS DEPARTMENTS.			
A—INSPECTOR OF FACTORIES.			
Pay of Officers	1,870		} <i>Vide note attached.</i>
Pay of Establishment	1,590		
Allowances, Honoraria, etc.	440		
Contingencies	1,700		
Total ..	5,600		
Grand Total ..	5,600		

[Appendix 3—contd.]

	Budget estimate for 1938-39.	Remarks.
	Rs.	
50, CIVIL WORKS.		
A—ORIGINAL WORKS.		
(i) Civil Buildings—		
Industries.		
New Major Works—		
Construction of buildings, etc., for a tanning school at Chamdewalaki Wadi at Khar.	42,000	Vide note attached.
Grand Total ..	42,000	
52, BOMBAY DEVELOPMENT SCHEME.		
<i>Original Works</i>	3,43,500	} Vide note attached.
<i>Repairs</i>	87,000	
<i>Establishment</i>	19,500	
Total ..	4,50,000	
Grand Total ..	14,17,600	

[Appendix 3—contd.]

Details of further Demands for Grants for 1938-39.

DEMAND NO. 1.

In his speech introducing the Civil Estimates the Honourable the Finance Minister stated that it had been decided to allot 8.92 lakhs for Education in addition to the lump provision of 24 lakhs entered at item No. 53 of the Budget Memorandum. An assurance has also been given that full details of the expenditure of all lump provisions will be laid before the House. In asking the vote of the Legislative Assembly to this additional demand of 8.92 lakhs the following details for the expenditure of 13.29 lakhs out of the total lump amount of 32.92 lakhs are given. Details of the remaining 19.63 lakhs will be placed before the Legislative Assembly in due course.

(1) *Restoration of the temporary cut in grants to local bodies for primary education—Rs. 8,05,000.*

Owing to financial stringency, Government have had to make temporary reductions in primary education grants from year to year as mentioned below :—

Year.			Temporary cut enforced.
1931-32	..	..	.. 5 per cent.
1932-33	..	..	.. 19½ "
1933-34	..	..	.. 12 "
1934-35	..	..	.. 12 "
1935-36	..	..	.. 11 "
1936-37	..	..	.. 8 "
1937-38	..	..	.. 8 "

These reductions in grants have not only hampered further expansion of primary education but have actually resulted in some cases in a setback in the progress made during the years prior to 1931-32. The resources of local bodies in the mofussil are very limited. They largely depend for their expenditure on primary education on grants from provincial revenues, and they have been very hard hit by these reductions in the provincial grants. Government therefore consider it absolutely necessary that the cut should be restored. An amount of Rs. 8,05,000 in addition to the amount of Rs. 1,09,32,500 already made in the budget will be required for this purpose. This grant will be sanctioned on condition that the whole of the amount thus made available to the Boards will be spent by the local authorities on the provision of facilities for the spread of education and not for reducing their own expenditure on education. With this object in view the use to be made by each Board of the grants now to be made available to them will be carefully examined by Government.

[Appendix 3—contd.]

(2) *Additional grant to Local Authorities on their admissible expenditure—Rs. 3,25,000.*

For several years past on account of financial stringency it was impossible for Government to admit for grant additional items of expenditure by Local Authorities owing to the normal expansion of educational activities by them. Therefore Government allowed the Local Authorities to incur from their own funds the whole of the additional expenditure, on the understanding that when the financial position of Government improved, the grant would be paid to them but without retrospective effect. An additional grant of about Rs. 3,25,000 recurrent is required to pay grants on account of such expenditure for which no grant has been paid to the Local Authorities for some years past. This grant will be sanctioned on the condition specified in item (1) above.

(3) *Grants to Local Authorities and others for school buildings—Rs. 1,00,000.*

The number of primary schools maintained by Local Authorities on 31st March 1937, was 10,784. They are housed as shown below:—

	District Local Boards.	Munici- palities.	Total.
1. Own buildings	2,704	205	2,909
2. Buildings partly owned and partly rented.	603	40	643
3. Rented buildings	2,098	841	2,939
4. Rent-free buildings	4,268	25	4,293
Total ..	9,673	1,111	10,784

It will be seen that a large proportion of the Local Authority schools are housed in rented or rent-free buildings which are generally unsuitable for school purposes. At present the Local Authorities have, however, no definite building programme for lack of funds.

The following extract from a report of the Educational Inspector, Southern Division, shows the very unsatisfactory state of affairs in regard to school buildings:—

“It is rather tiresome to have to repeat year after year the same old story of unsatisfactory buildings. But the fact is still there that many of our Primary school buildings are unfit for use by children.

[Appendix 3—*contd.*]

In an age when even criminals are well housed and well looked after and when institutions for delinquents are no longer treated as juvenile jails, but as Reformatory schools, we still come across buildings in which it would be a social crime to house even delinquents. Many a building suffers from too much of the sun, rain and wind, while not a few have rooms where the sun's rays rarely penetrate and where air condition is almost entirely absent. These are not conditions that will help to improve the none too good health of the village and town children."

Government therefore wish to encourage Local Authorities and other agencies who may wish to open primary schools to have school buildings of their own with the help of the building grants which Government will pay from this provision.

(4) *Grants-in-aid to Secondary Schools—Rs. 99,000.*

The total number of recognised secondary schools, whether in receipt of grants-in-aid or not, is *585, including English classes attached to Primary schools. Of these only about 369 institutions are in receipt of aid from the Educational Department. According to the provisions of the grant-in-aid code, grants are admissible equal to one-third of the approved expenditure of a school. Owing to inadequacy of funds, however, in actual practice grants are limited to one-fourth only of the approved expenditure. Even then a large number of schools do not receive the full admissible grants according to the one-fourth limit. If all the 585 institutions were paid grants at the one-fourth rate, the total additional allotment required would be about Rs. 6,28,000. It is proposed to provide an additional allotment of Rs. 1,90,000 recurrent (of which Rs. 91,000 has already been taken into account at page 196 of the Civil Budget estimates). This additional provision of 1.90 lakhs recurrent will enable the Educational Department to give grants to some recognised schools which get none at present and to increase the percentage of grants in cases where it is low at present.

DEMAND NO. 2.

Ayurvedic and Unani Teaching Institutions—Rs. 20,000.

This is in addition to the grants provided for in the budget for 1938-39 which are considered inadequate. The total amount of Rs. 50,000 recurring and Rs. 50,000 non-recurring will be used for grants to recognised teaching institutions and for starting them in areas where recognisable institutions may not be available.

DEMAND NO. 3.

The expenditure of Rs. 1,52,500 is made up as under:—

Appointment of Non-official Honorary Agricultural Agents.

2. With a view to assisting agricultural propaganda work it is proposed to employ non-official agricultural agents who will work in

* Excluding European schools.

[Appendix 3—contd.]

co-operation with the officials of the Agricultural Department in bringing to the notice of the cultivators improved methods of agriculture. These agents will be selected from amongst persons willing to serve in an honorary capacity and, after receiving training in the work they have to carry on, will be supplied with literature on the subject and placed, in the first instance, in charge of large villages or groups of two or three small villages at five centres in each taluka. As these agents are honorary there will be no expenditure on pay, but expenditure of Rs. 5,000 (both recurrent and non-recurrent) is anticipated during the financial year 1938-39 on the item shown below :—

(1) Cost of training the agents including railway or motor bus fare to training centres and subsistence while under training.

(2) Miscellaneous, e.g., printing, postage, etc.

(3) Supply of stamped post-cards to agents for corresponding with the officers of the Agricultural Department in connection with progress of work, further requirements, outbreaks of insect or disease attack on crops, etc., at Rs. 2 per agent.

It is, therefore, proposed to sanction an expenditure of Rs. 5,000 on the schemes for the organisation of non-official agricultural agents outlined above.

Construction of Gas Plant Apparatus at the Agricultural College, Poona.

3. The provision of Rs. 7,939 made in the current year's budget on account of new equipment for the Poona Agricultural College laboratories, includes a grant of Rs. 5,500 for a Gas Plant with its accessories. The cost of providing the Gas Plant through the agency of the Public Works Department is now estimated to amount to Rs. 7,297. The work in question could not, however, be undertaken and completed during the current year owing to lack of adequate budget provision. It is therefore proposed to provide for the expenditure of Rs. 7,297 on the work in next year's budget.

Opening of a Class in the College of Agriculture, Poona, for the Training of Ranger Students.

4. (i) Hitherto probationers for the Ranger Course of this province have had two years training at the Madras Forest College, Coimbatore. Government has paid the travelling allowance of the probationers and the greater part of their fees, the remainder being paid by the students, at a cost to Government of Rs. 17,000 per annum. The Government of Madras has now decided to close the college as soon as the students now in the College have completed their course. After considering various possibilities Government have decided to make its own arrangements for training its own probationers at the Agricultural College, Poona, where lecture rooms, laboratory and hostel accommodation and lecturers in many subjects are available. For specialised forestry training a Forest Officer will be deputed to the Agricultural College as Forestry Instructor.

[Appendix 3—*contd.*]

(ii) The cost of training six students on an average at the College of Agriculture, Poona, during the whole course of 2 years is estimated as under:—

	Rs.
1. Pay of the Forestry Instructor in the scale of Rs. 250—20—750 (average Rs. 336) ..	8,064
2. Pay of one clerk on Rs. 80—5/2—95 (average Rs. 91)	2,184
3. One peon on Rs. 18	432
4. Two peons on Rs. 17 each	816
5. Travelling allowance of the Instructor for 8 months at Rs. 150 per month	1,200
6. Travelling allowance of 2 peons for 8 months ..	320
7. Contingencies, postage, carriage of records, kit, etc.	1,000
8. Stock of books and mathematical instruments for issue to students on payment	1,000
9. Cost of minor constructional alterations necessary in buildings and other unforeseen expenses ..	1,000
Total cost for 2 years for a class of 6 students ..	16,016

In round figures say Rs. 16,000.

It is proposed that fees to the extent of Rs. 500 for the two years' course should be recovered from each student as in the past when the students were trained at Coimbatore. The net financial effect will therefore be as follows:—

Savings and Recoveries.

	Rs.
Saving of fees paid to the Madras Government ..	15,000
Recoveries of fees from students	3,000
	18,000
<i>Deduct—</i>	
Cost of training as estimated above	16,000
Net saving ..	2,000

[Appendix 3—*contd.*]

(iii) A provision of Rs. 16,400 has been made in the budget estimates for 1938-39 for forest training under the head 10, Forest. This was intended for training of Ranger students at the Madras Forest College, Coimbatore. A portion of this is required for students already undergoing training at Coimbatore and the balance will be available to meet the expenditure on account of the class to be opened at Poona. The expenditure under Agricultural department will be counterbalanced by a corresponding credit from the Forest department. There will therefore, be no additional expenditure under 40, Agriculture. As, however, this is a new scheme, it is brought specifically to the notice of the Legislative Assembly.

Taluka Demonstration Centres.

5. With a view to enable the results of successful research work carried out at Government research stations, farms, etc., to be incorporated in the agricultural practice in the districts it is proposed to establish, in the first instance, 50 taluka demonstration centres in 1938-39. These centres will be organised on cultivators' lands, at or near each taluka headquarters. They will be cultivated in accordance with the methods advocated by the Agricultural Department, the land and the produce remaining the property of the cultivator-owner. They will also be developed as seed and implement distribution centres and, wherever possible, as horticultural, dairying and live stock improvement demonstration centres also. Ultimately the scheme in full working would require 180 taluka demonstration stations. Even with the beginning suggested the scheme will create a close contact between the Department of Agriculture and the cultivator in several places where there is no real contact at present. The cost on account of the scheme during the next year will be Rs. 49,500 as shown below:—

I—NON-RECURRENT.

Contingent expenditure.

	Rs.
Amount required for the purchase of implements, seed, etc., for initial stocking of the seed and implement depôts to be established at 50 Taluka Agricultural Demonstration Centres (at Rs. 250 for each centre)	12,500

[Appendix 3—*contd.*]

II—RECURRENT.

Contingent expenditure.

	Rs.
(i) Annual grants to the cultivator on whose land the Taluka Agricultural Demonstration centre will be established (at Rs. 5 per acre or Rs. 150 for 30 acres being the average size of such centre).	7,500
(ii) Rent for accommodation for resident kamgar and for seed and implement depôts at Rs. 6 per month or Rs. 72 per annum	3,600
(iii) Miscellaneous expenditure at Rs. 78 per annum on account of stationery, postage, horticultural materials, etc.	3,900
(iv) <i>Expenditure on staff</i> —50 kamgars on Rs. 35—5/2—60 at an average starting pay of Rs. 40 per mensem for 11 months	22,000
Total ..	49,500

On the establishment of these centres, it is expected that the cost on some of the Government farms will be retrenched and some savings will be effected.

Distribution of improved seed to cultivators.

6. The increased distribution of improved seed will be one of the most important functions of the "Taluka Demonstration Centres" which it is proposed to establish. There will be 50 such centres and at each centre a seed depôt will be established and stocked with improved seed for distribution at the cheapest possible rates to the neighbouring cultivators. At the rate of Rs. 200 per centre, an expenditure of about Rs. 10,000 will be necessary for this purpose next year.

Demonstration of control measures against mango-hopper.

7. The mango-hopper is a very serious pest on mango trees in the Province and causes considerable loss to mango-growers. The Agricultural Department has evolved very effective measures of insecticidal treatment of this pest, but the application of these measures requires skill and experience. It is accordingly proposed that a travelling organisation should be established to visit the main centres of mango cultivation in the Province at the time when control measures against mango-hopper will be most effective in order to demonstrate, on a wide scale, to the mango-growers, effective means of dealing with this pest. The cost of such a travelling organisation with complete equipment will be approximately Rs. 4,000.

[Appendix 3—contd.]

Spraying parties to combat Koleroga disease of betelnuts.

8. Betelnut is the main money crop of the Kanara District and is estimated to yield in a normal year an outturn worth about half a crore. It has always been subject to a fungus disease locally called Koleroga, which causes very heavy losses. Spraying with Bordeaux Mixture has been found to be a specific remedy. Neither the spraying apparatus nor the chemicals are locally available, but operations in small areas with a few sprayers provided by Government proved the suitability of this remedy locally. Extensive propaganda work is accordingly being undertaken in the Southern Division to spread this practice of spraying with Bordeaux Mixture. In Siddapur Taluka 2,000 acres were sprayed in 1936-37 as against 1,615 acres in the previous year, and loans amounting to Rs. 9,492 were made to gardeners to meet the cost of spraying machines and chemicals and the wages of expert climbers. This work was organised in 101 villages. Similar work, but on a less intensive scale, was carried out in other talukas of the Kanara District. The total area sprayed was 3,516 acres in 1936-37 as against 3,156 acres in the previous year, and the total saving to the garden-owners is estimated at Rs. 1,23,060 at Rs. 35 per acre sprayed. Government desire to accelerate the rate of progress which can only be accomplished by the organisation of skilled spraying parties equipped with the necessary materials and machines for spraying. Additional expenditure of Rs. 5,000 is proposed for this purpose.

Schemes for investigation into Striga attacks on jowar crops.

9. There are four species of *Striga* in India, three of which cause serious damage to Jowar in many Provinces. The parasite is a flowering plant producing a large number of minute seeds which are easily distributed by the wind. Once the parasite infests a particular area its eradication is almost impossible by the means at the disposal of cultivators. *Striga* attacks not only Jowar but also sugarcane finger millet and Kodra or Italian hill millet. Besides it has a fairly wide range of hosts in uncultivated plants and grasses.

The area under Jowar in India is 20,616,072 acres of which the Province of Bombay grows 8,315,203 acres or 40.3 per cent. There is a large number of varieties of Jowars suited to the different tracts in India and *Striga* attacks all of them. In the Province of Bombay itself *Striga* occurs in the Karnatak, the Deccan and Gujarat tracts which differ considerably from each other in climatic and soil characters. There are tracts in this Province where Jowar cannot be grown owing to the heavy infestation by *Striga*. The attack of *Striga* on jowar is a problem affecting more than half the provinces in India and calls for immediate investigation. In this Province the *Striga* affected area is increasing year by year and the cultivators, finding the task of eradication hopeless, have resigned themselves to harvesting the surplus after the parasite has done its damage. A scheme of investigation was prepared by the Economic Botanist to Government but in view of its all-India importance was submitted to the Imperial Council of Agricultural Research after approval by the Provincial Agricultural Research Committee.

[Appendix 3—*contd.*]

The scheme, as approved by the Imperial Council of Agricultural Research, is for five years and costs Rs. 27,060. Government have agreed to meet 20 per cent. of the cost of the scheme, i.e., Rs. 5,412 spread over five years.

The Imperial Council of Agricultural Research recently intimated its readiness to provide its share of the cost in 1938-39 if the Government of Bombay could provide its quota. This item is accordingly submitted for the approval of the Legislature.

The cost during the first year is estimated at Rs. 10,565 as shown below :—

	Rs.
Pay of Establishment	2,365
Allowances, Honoraria, etc.	600
Recurring contingencies	600
Non-recurring contingencies	7,000
Total ..	<u>10,565</u>

This cost will be shared as shown below :—

	Rs.
Imperial Council of Agricultural Research ..	8,132
Bombay Government	2,433
Total ..	<u>10,565</u>

10. The cost of the schemes outlined above and of the schemes under Demand No. 4 comes to Rs. 1,18,900. The details regarding the balance of Rs. 61,100 out of the total demand of Rs. 1,80,000 will be laid on the tables of the Legislatures in due course. A sum of Rs. 40,000 approximately out of this is intended to provide for the improvement of the Tobacco crop in the Karnatak and in other suitable areas and for improving the marketing facilities of Tobacco-growers and for introducing industries subsidiary to Tobacco-growing.

DEMAND No. 4

1. The expenditure of Rs. 27,500 is made up as under.

Additional establishment in the Co-operative Department.

2. (i) Under section 22 of the Co-operative Societies Act, 1925, it is the statutory duty of the Registrar to audit the accounts of every co-operative society at least once a year. The audit staff under the Registrar consists of—

- 4 Special Auditors,
- 30 Auditors,
- 29 Sub-Auditors.

Owing to the shortage of staff, the audit is sometimes perfunctorily performed, while a number of societies remain unaudited at the end of

[Appendix 3—contd.]

the year. The societies pay for their audit and Government have recently issued orders that if a society is not audited within the co-operative year, its audit fees should be refunded to it.

(ii) It has been decided in the interests of administration to classify societies into minor and major societies and to entrust the audit of minor societies to sub-auditors and of major societies to auditors and special auditors. Societies with a share capital of Rs. 2,000 or less and all societies in which the members hold no shares will be treated as minor societies. There are over 4,450 societies of this class and a staff of 53 sub-auditors will be required to audit them adequately. For the audit of major societies a staff of 4 special auditors and 23 auditors is required.

(iii) Provision for the employment of 3 sub-auditors has been made in the budget estimates for 1938-39. It is now proposed to make provision for 21 additional sub-auditors as under :—

	Cost in 1938-39.	Ultimate annual cost.
	Rs.	Rs.
7 Sub-auditors (Rs. 95—5—130) ..	7,315	9,876
14 Sub-auditors (Rs. 75—5/2—90) ..	11,550	14,247
21 Peons (3 on Rs. 20, 4 on Rs. 17 and 14 on Rs. 14 per mensem each).	3,564	3,888
Travelling allowance, etc. ..	9,790	10,680
Contingencies	3,400	2,520
Total	35,619	41,211

(iv) With the employment of the additional sub-auditors, 7 posts of auditors with their clerks and peons will be reduced. The reduction will result in an average annual saving of about Rs. 29,000. The reduction will be effected gradually as vacancies in the cadre of auditors take place. In the meanwhile a reduced number of sub-auditors will be employed. A reduction of Rs. 15,619 for probable savings has, therefore, been made in the provision of Rs. 35,619. The net provision for 1938-39, therefore, comes to Rs. 20,000.

Grants-in-aid to Village multi-purpose Co-operative Societies.

3. (i) The experience so far gained of the working of agricultural credit societies shows that although these societies have been able to supply credit to agriculturists on very reasonable terms and bring about a reduction of interest they have not been able to do much to foster the economic development of rural life. If the co-operative movement is to be revitalised and make real progress it is necessary to have village

[Appendix 3—contd.]

societies which will not only provide loans but also help the agriculturists in the marketing of crops and purchase of necessities and take an active part in agricultural development. It is, therefore, proposed to start multi-purpose societies to serve as centres of rural economic progress.

(ii) These societies will be started in areas provided with marketing facilities. The area of operation of a multi-purpose society will be a group of villages within a radius of about five miles. The society will work on the unlimited liability basis and will, besides providing credit for the normal cultivation needs of its members, act as an agency for the supply of agricultural requisites and the sale of marketable produce. It is proposed to start about 50 societies during the next year.

(iii) To manage these societies efficient and qualified staff is necessary. To enable the societies to maintain such a staff it is necessary to give them grants-in-aid. On an average a grant-in-aid of Rs. 150 will be necessary for each society. The expenditure during 1938-39 will amount to Rs. 7,500.

DEMAND No. 5.

In November 1930, Government sanctioned a grant of Rs. 8,500 to the All-India Village Industries Association for the training of candidates in jaggery-making out of palmyra and date-palm juice, grant of scholarships for short courses of instruction in paper-making and oil pressing at the All-India Village Industries Association Village Workers' Training School at Wardha, setting up of approved type of Ghanis for demonstration purposes at five centres in the Presidency, and the publication of leaflets, pamphlets, etc., on subjects relating to the development of village industries.

2. The Association has submitted an application for a grant of Rs. 21,220 for similar purposes in the year 1938-39 also.

3. The details of the scheme submitted by the Association are being scrutinised by Government and will be laid on the tables of the Legislature. In the meantime, sanction of the Legislative Assembly is requested to the provision of a lump sum of Rs. 20,000 for the payment of the grant to the All-India Village Industries Association.

Scheme for a Tanning School.

4. In the current year's budget, provision has been made for engaging the staff necessary for starting a leather-working school from next year. It is now proposed to start a tanning school in conjunction with the leather-working school. The first school will be in the vicinity of and almost on the same lines as the latter, i.e. there will be an advanced course of two years and an artisan course of one year. It is proposed to start both the schools at Chamdewalakiwadi at Khar where facilities for such schools already exist. A provision of Rs. 8,000 is proposed in next year's budget estimates for the purchase of some of the equipment required for the tanning school, and a provision of Rs. 42,000 is proposed under "50, Civil Works" on account of buildings etc. for both the schools.

[Appendix 3—*contd.*]

Because of the inadequacy of the equipment and the building accommodation it will be possible to start only the artisan course in both the schools next year. In the tanning school only manual methods and processes will be taught as it will not be possible to buy much machinery with the small sum available. It is hoped to admit students into both the schools from the month of September next by which time the construction of buildings should be complete. The proposed tanning school will be of such size as will cost about Rs. 10,000 annually.

DEMAND No. 6.

Government have applied the provisions of the Factories Act, 1934, to certain concerns employing between 10 and 20 persons and working with or without the aid of power. They have also extended the important provisions of the Payment of Wages Act, 1936, to all classes of persons employed in any individual industrial establishment or classes of industrial establishments which have been or may be declared to be factories under section 5 of the Factories Act, 1934, for all or any purposes of that Act. It is estimated that something like five or six hundred concerns will be brought on the register in this way. This will result in a considerable addition to the work of the Factory Department and it will be necessary to keep an Inspector permanently at Poona for this work. In the beginning this Inspector will be appointed for one year. It is also necessary to sanction the necessary clerical and menial staff. The following expenditure is required during 1938-39 :—

Name of appointment.	No.	Pay.
		Rs.
Inspector	1	170-10-250—E.B.—15-400 plus Rs. 40 conveyance allowance.
Clerk	1	50-5,2-90.
Clerks	2	25-5,2-75 each.
Peons	2	17 per mensem each.

	Rs.
<i>Contingencies—</i>	
Office rent	900
Recurrent contingencies	400
Non-recurrent contingencies	400

The total cost during next year amounts to Rs. 5,594 or Rs. 5,600 in round figures.

[Appendix 3—contd.]

DEMAND No. 7.

Construction of Buildings, etc., for the Leather Working and Tanning School.

In order to start the leather-working and tanning schools proposed in Demand No. 5 the following expenditure is necessary under "50, Civil Works"—

	Rs.
(1) Making improvements and filling up site ..	1,000
(2) Approach Road to the schools	8,000
(3) Water supply and electricity	3,000
(4) Building half the Leather Working School ..	12,000
(5) Building half the Tanning School	18,000
Total ..	<u>42,000</u>

DEMAND No. 8.

Improvements to Development Chawls.

There are about 60 chawls at Worli, Naigaum, DeLisle Road and Sewri vacant for a considerable time. Government have for some time past been considering the question of making the chawls attractive so as to increase the number of tenants, and have for this purpose appointed a committee of which the Honourable the Prime Minister is the Chairman. It is considered that, if some additions and alterations, etc., estimated to cost about Rs. 10 lakhs in all are made, the chawls will be more comfortable and suitable for labourers to live in. This will solve to some extent the housing problem of labourers. According to the declared policy of Government, special attention has been paid to necessary amenities consisting of electric lights in the rooms, play grounds for children at Government cost, radio sets at four centres, etc. Every chawl will have three rooms reserved for reading rooms and other recreations. Social workers are being appointed to look after sanitary arrangements and make social propaganda to improve the habits of tenants. It is anticipated that about 40 more chawls will be let out due to the proposed improvements and these will bring in an additional revenue of about Rs. 70,000 per annum by way of rents. It is proposed to spend 4½ lakhs during 1938-39 and the balance in 1939-40.

APPENDIX
Statement of Supplementary

Serial No.	Minister in Charge.	Major Head of Account.	Original Appropriation Charged.
			Rs.
1	Hon'ble the Minister for Revenue, Rural Development and Agriculture.	7, Land Revenue	14,78,000
2	Hon'ble the Minister for Health (Medical, Public Health and Excise).	8, Provincial Excise	....
3	Hon'ble the Minister for Revenue, Rural Development and Agriculture.	9, Stamps	....
4	Do.	10, Forest	4,48,000
5		11, Registration	....
6	Hon'ble the Minister for Home Department (and Legal).	12, Charges on account of Motor Vehicles Tax.	12,98,000
7	Hon'ble the Minister for Public Works.	XIII, Deduct Working Expenses	..
		18, Other revenue expenditure financed from ordinary revenues, and	....
		19, Construction of Irrigation, etc., Works.	..
8	Hon'ble the Minister for Finance.	23, Appropriation for reduction or Avoidance of Debt.	4,21,000
9	Do.	25, General Administration	....
10	Hon'ble the Minister for Home Department (and Legal).	27, Administration of Justice	....
11	Do.	28, Jails and Convict Settlement	....
12	Do.	29, Police	....
13	Hon'ble the Prime Minister.	37, Education	....
14	Hon'ble the Minister for Health (Medical, Public Health and Excise).	38, Medical	....
15	Hon'ble the Prime Minister.	47, Miscellaneous Departments	96,000

4.

Expenditure for the year 1937-38.

Original Grant Voted.	Supplementary Appropriation Charged.	Supplementary demand Voted.	Remarks.
Ra.	Ra.	Ra.	
31,25,000	18,000	53,000	} <i>Vide statement of explanation attached.</i>
32,36,000	....	40,000
1,08,000	....	3,500
23,43,000	13,000	2,31,700	
5,66,000	....	5,020
2,19,000	1,09,000	5,000	
14,05,000	....	7,31,620
....	15,88,000	....
78,22,000	....	2,05,908
42,77,000	....	2,44,000
15,65,000	....	68,789
1,31,66,000	....	1,80,000
1,51,97,000	....	9,55,000
38,47,000	....	53,000
6,56,000	7,040	20,514	

[Appendix 4—contd.]

Serial No.	Minister in Charge.	Major Head of Account.	Original Appropriation Charged.
			Rs.
16	Hon'ble the Minister for Public Works.	50, Civil Works	7,78,000
17	Hon'ble the Minister for Revenue, Rural Development and Agriculture.	54, Famine	....
18	Hon'ble the Minister for Local Self-Government (and Miscellaneous).	56, Stationery and Printing	....
19	Do.	57, Miscellaneous	....
20	Hon'ble the Minister for Finance.	63, Extraordinary Charges	....
		Total Expenditure Charged	
		<i>Expenditure Charged to Capital.</i>	
21	Hon'ble the Minister for Health (Medical, Public Health and Excise).	70, Capital Outlay on Improvement of Public Health.	....
22	Hon'ble the Minister for Public Works.	80, Bombay Development Scheme	....
23	Hon'ble the Minister for Finance.	83, Payment of Commuted Value of Pensions.	37,000
24	Do.	85, Payment to Retrenched Personnel	....
		Total Expenditure Charged	
		<i>Debt heads.</i>	
25	Hon'ble the Minister for Finance.	Permanent debt	....
26	Do.	Loans from the Central Government	57,30,000
27	Do.	State Provident Funds	29,88,000
28	Do.	Famine Relief Fund	5,38,000
29	Hon'ble the Minister for Public Works.	Provincial Road Fund	13,29,000
30	Hon'ble the Minister for Finance.	Advances repayable	13,31,000
31	Do.	Permanent Advances	4,000

[Appendix 4—contd.]

Original Grant Voted.	Supplementary Appropriation Charged.	Supplementary demand Voted.	Remarks.
Ra.	Ra.	Ra.	
1,42,32,000	68,485	70	} <i>Vide statement of explanation attached.</i>
....	3,82,500	....
10,62,000	....	2,65,000
6,90,000	831	94,300	
8,000	....	30,500
to Revenue ..	22,96,856	31,86,921	
1,46,000	10	} <i>Vide statement of explanation attached.</i>
7,61,000	....	10
5,00,000	1,23,000	95,000	
....	....	10
to Capital ..	1,23,000	95,030	
....	75,000	} <i>Vide statement of explanation attached.</i>
....	17,46,000	....
....	6,12,000	....
....	1,27,000	....
....	3,10,000	....
3,38,000	81,000	50,000	
....	2,000	....

[Appendix 4—contd.]

Serial No.	Minister in Charge.	Major Head of Account.	Original Appropriation Charged.
			<i>Debit heads—</i> Rs.
32	Hon'ble the Minister for Finance.	Accounts with the Government of Burma.	....
33	Do.	.. Accounts with the Reserve Bank ..	....
34	Do.	.. Suspense Accounts ..	8,85,000
35	Do.	.. Departmental and Similar Accounts ..	60,000
36	Do.	.. Miscellaneous Government Account ..	10,93,000
37	Do.	.. Loans and Advances by Provincial Government.	....
38	Do.	.. Cash remittances between officers rendering accounts to the same Accountant General.	1,12,08,000
39	Do.	.. Remittance by Bills ..	....
40	Do.	.. Adjusting account between Central and Provincial Governments.	....
41	Do.	.. Inter-Provincial Suspense Account ..	....
			Total—

FINANCE DEPARTMENT :

18th March 1938.

[Appendix 4—contd.]

Original Grant Voted.	Supplementary Appropriation Charged.	Supplementary demand Voted.	Remarks.
contd.			
Rs.	Rs.	Rs.	
....	30,000	} <i>Vide statement of explanation attached.</i>
....	1,20,000	....
....	2,19,15,000	....
....	90,000	....
....	1,58,000	....
8,46,000	....	4,93,000
....	11,35,92,000	....
....	3,90,00,000	....
....	3,57,00,000	....
....	19,00,000	....
Debt heads ..	21,54,58,000	5,43,000	

[Appendix 4—contd.]

Statement of Explanations.

No. 1. 7, Land Revenue.

(a) The charged excess is under the minor head "Assignments and Compensations" mainly due to the payment of arrears.

(b) An additional grant of Rs. 53,000 is required to cover the excess expenditure expected to occur during the year 1937-38 under the following voted heads—

Charges of Administration—

	Rs.
Contingencies	12,000

Land Records—Pot Hissa measurement operations—

Pay of officers	} 23,600
Pay of establishment	
Cost of boundary marks recoverable from land-holders	17,400
Total ..	53,000

The main reason for the excess is that the provision for each item which was fixed in consultation with the Finance Department, after taking into account the requirements of the controlling officers and the past actuals, was reduced in order to accommodate the lump reduction of Rs. 50,000 applied to the total voted grants under 7-Land Revenue. The grants so reduced proved inadequate.

No. 2. 8, Provincial Excise.

In furtherance of its policy of total prohibition (i.e., prohibition of the transport, consumption and possession of all liquor and drugs) in this Province, Government have decided to constitute (1) Ahmedabad City and Cantonment and Suburbs and (2) two talukas in each of the three divisions as "dry areas" with effect from 20th May and 1st April 1938 respectively. The details of the two schemes were explained in the new item statements 16 and 17 printed on pages 138-142 of the Budget Memorandum for 1938-39. In order that the schemes may be brought into working order by the due dates the Commissioner of Excise has been authorised to incur during the current year expenditure of Rs. 38,000 for the Ahmedabad experiment and of Rs. 3,000 for the three rural areas.

[Appendix 4—*contd.*]

The total expenditure comes to Rs. 41,000 but it will be possible to meet a part of it from savings under the minor head "District Charges". The balance of the expenditure together with small excesses under other minor heads comes to Rs. 40,000 during the current year.

No. 3. *9, Stamps.*

An additional grant of Rs. 3,500 is required to cover the excess expenditure of Rs. 3,500 expected in the current year as shown below :—

	Excess expenditure.
	Rs.
Charges for sale of Stamps—(Non-judicial)—	
Contingencies—discount	2,300
C-Cost of stamps supplied from Central Stamp Stores (Non-judicial)	1,200
	3,500

The increase under "Contingencies—discount" is due to the increased sale of stamps of lower denominations and the consequent increase in the amount of commission given to stamp-vendors. The increase in the cost of stamps supplied from the Central Store (non-judicial) is also due to the increase in the sale of stamps. For these reasons the lump cut of Rs. 3,000 made in the current year's budget is not expected to be realised.

No. 4. *10, Forest.*

(a) The increase of Rs. 13,000 in the charged grant is mainly due to (i) officers proceeding on leave in England in excess of the number anticipated and (ii) the Chief Conservator of Forests and Conservator of Forests, N. C., drawing pay for part of March before the close of the financial year before proceeding on leave to England. This is partly counterbalanced by savings in the charged expenditure in India including that in the provision for "Interest on capital outlay".

(b) On 22nd September 1937 Government issued orders abolishing, with effect from 1st July 1937, grazing fees for all classes of cattle, sheep and goats other than those coming from Indian States or other Provinces. A considerable part of the grazing fees for the year had been collected however before these orders were issued and Government ordered the refund of the fees so collected. It is estimated that an expenditure of Rs. 2,31,700 will be incurred on account of this refund. As no provision was made for this purpose in the current year's budget, a grant of Rs. 2,31,700 is now requested.

[Appendix 4—*contd.*]

No. 5.

11, Registration.

An excess of Rs. 17,320 has occurred owing to—

(i) higher expenditure on travelling allowance to Sub-Registrars visiting outstations for registration purposes and also on account of transfer and deputation of clerks as Sub-Registrars in leave vacancies;

(ii) increased expenditure under non-contract contingencies for the purchase of country stores in the Government Photo Registry owing to the extension of the photo system to sixteen more offices; and

(iii) increased consumption of service stamps, the cost of which is recoverable from the parties for return of their documents.

The excess is covered to the extent of Rs. 12,300 by corresponding savings which accrued mainly on account of the abolition of 3 posts of Sub-Registrars and 16 posts of clerks. The net excess comes to Rs. 5,020.

No. 6.

12, Charges on account of Motor Vehicles Acts.

In the current year's budget a provision of Rs. 5,33,000 (charged) was made under the minor head "Other charges". The provision represents the transfer to the Provincial Road Fund under Section 9 (4) of the Bombay Motor Vehicles Tax Act, 1935. Under this section of the Act, surplus receipts after deducting charges of collection, overhead charges, and the amount of Rs. 26,53,000 mentioned therein are to be transferred to the Provincial Road Fund. The receipts under the Act during the current year are estimated at Rs. 37,79,000 against the budget estimate of Rs. 34,00,000 showing an increase of Rs. 3,79,000 but on the other hand the estimate of overhead charges and charges of collection which had not been fully worked out when the budget estimates were framed has had to be raised. Consequently the amount to be transferred to the Road Fund is estimated to increase by Rs. 2,07,000. This increase is counterbalanced by a decrease of Rs. 8,000 under other minor heads and the net increase comes to Rs. 1,99,000 (charged).

2. The voted excess of Rs. 5,000 is on account of the leave salary drawn in England by Mr. E. Sheehy, Superintendent of Police, Motor Vehicles Department.

No. 7.

18, Other Revenue expenditure financed from ordinary revenues.

A total excess of Rs. 7,31,620 is anticipated on the grant voted by the Legislative Assembly as shown below :—

(i) Rs. 9,540 under the minor head "18-A—Irrigation Works—(1) Extensions and Improvements". (Public Works).

(ii) Rs. 6,080 under the minor head "18-A—Irrigation Works—(2) Miscellaneous Expenditure". (Public Works).

[Appendix 4—contd.]

(iii) Rs. 7,16,000 under "18-A—Irrigation Works—Civil".

(a) The amount of Rs. 9,540 is to cover the expenditure incurred on scarcity works (improvements to tanks) in the Panch Mahals.

(b) As regards the sum of Rs. 6,080, a committee consisting of official and non-official members has been appointed to examine the general irrigation policy of Government. The Committee commenced its work from the 6th January 1938 and is expected to finish it by the middle of March 1938. In order to accelerate the work of the committee, the following temporary posts have been sanctioned from the dates specified against them till the completion of the work of the committee :—

	Date of creation.
One post of Executive Engineer on special duty.	3rd February 1938.
One post of Assistant Engineer in the scale of Rs. 250—20—750 with efficiency bars at Rs. 390 and Rs. 550.	6th February 1938.
One post of Deputy Engineer in the scale of Rs. 170—10—250—E.B.—265—15—400—E.B.—420—20—500.	4th February 1938.
One post of Overseer in the scale of Rs. 60—5—100—E.B.—10—170—E.B.—10—250.	19th January 1938.
One post of clerk in the scale of Rs. 115—5—160.	19th January 1938.
Two posts of typists on Rs. 100 per mensem each.	1st February 1938.
One peon on Rs. 19 per mensem	.. 3rd February 1938.
Shorthand allowance to the clerk at Rs. 40 per mensem.	19th January 1938.
Special pay at Rs. 25 per mensem to one Junior Assistant in the P. W. D. Secretariat for doing work in connection with the Committee in addition to his own duties.	14th January 1938.

It is estimated that the total expenditure on the Committee including the cost of pay and travelling allowance

	Rs.	
(a) Pay of Officers—		
Charged ..	1,500	of the staff mentioned above and
Voted ..	1,100	
(b) Pay of establishment—		
Voted ..	1,400	travelling allowance to non-official
(c) Allowances—		
Charged ..	1,500	members of the Committee and
Voted ..	7,050	
(d) Contingencies—		
Voted ..	150	Secretary to the Committee will amount
	<u>12,700</u>	
		roughly to Rs. 12,700 as shown
Charged ..	3,000	
Voted ..	9,700	on the margin. Out of this an

[Appendix 4—contd.]

expenditure of Rs. 10,600 as shown below is estimated to be incurred during the current year:—

					Rs.
(a) Pay of Officers—					
<i>Charged</i>	..	..	..	..	1,100
Voted	..	..	..	..	700
(b) Pay of Establishment—					
Voted	..	..	..	..	900
(c) Allowances—					
<i>Charged</i>	..	..	..	..	1,100
Voted	..	..	..	..	6,650
(d) Contingencies—Voted	..	..	..	..	150
				Total	.. 10,600
				<i>Charged</i>	.. 2,200
				Voted	.. 8,400

The charged expenditure will be met from savings in the charged grant. As regards the voted expenditure, a sum of Rs. 2,320 is available from the grant already voted by the Legislative Assembly.

(c) Owing to the scarcity conditions prevailing in the eastern portion of the Panch Mahals sub-division of the Broach and Panch Mahals district and in parts of the Ahmednagar, Poona, Sholapur and Bijapur districts a number of scarcity works were undertaken to provide labour to the scarcity-stricken people. These works consisted of repairs to and construction of tanks in charge of the Revenue Department and the Public Works Department, metal-breaking works, repairs to roads, etc. A provision of Rs. 9,05,000 was made on this account in the budget for the year 1937-38 under the head "50, Civil Works", pending its distribution between the other heads of accounts to which the charge was properly debitable. This arrangement had to be made owing to the absence of information, at the time, as to the amounts likely to be required under each head of account. The total expenditure expected on scarcity works in the current year is Rs. 12,16,000 of which Rs. 7,16,000 will be for works under this head and Rs. 5,00,000 under "50, Civil Works". There will be a saving of Rs. 4,05,000 under "50, Civil Works" part of which is being reappropriated to meet excesses under that head, and the balance is being surrendered.

No. 8. *23, Appropriation for Reduction and Avoidance of Debt.*

The consolidated debt is being repaid to the Government of India in fixed half-yearly equated instalments of principal and interest. During the current year interest was due for 10 months only instead of for 12 months as provided in the budget; but the total instalments being fixed, the reduction in interest charges has resulted in a corresponding increase in the portion of principal repaid. This accounts for the excess of Rs. 15,88,000.

[Appendix 4—contd.]

No. 9. 25, General Administration.

An excess expenditure of Rs. 2,05,908 is expected to occur during the year 1937-38 under the following voted heads:—

	Rs.
(a) Commissioners	9,036
(b) General Establishments	1,91,377
(c) Sub-Divisional Establishments	22,435
(d) Other Establishments	55,060

The excess under (a) is due to leave being taken to a greater extent by gazetted officers than anticipated, long and extensive touring and transfers, more expenditure on carriage of records during tours and Commissioners' conferences, increased correspondence on account of famine, and expenditure on the Karnatak Agricultural Show.

The excess under (b) is due to the appointment of a greater number of officers, whose pay is voted, to officiate in place of I.C.S. officers on leave, continuance of temporary establishment in the Bombay Suburban District for which no budget provision existed, non-realisation in full of the 2½ per cent. cut in allowances and contingencies and increased correspondence on account of scarcity operations and local board and other elections.

The excess under (c) is under (i) "Pay of Officers" due to leave being taken to a greater extent than was anticipated and under (ii) "Allowances, Honoraria, etc." due to the non-realisation in full of the 2½ per cent. cut and payment of water allowance to establishments in Nasik, Poona and Ahmednagar districts.

The excess under (d) is due to the transfer of talatis, payment of arrears and non-realisation in full of the 2½ per cent. cut under allowances and contingencies.

2. Owing to the pressing necessity of retrenchment in expenditure in 1931 a reduction of 10 per cent. was made in the cost of the non-gazetted establishment in the General Department. It was, however, found that this arrangement only resulted in the Department being overworked. Some additional subjects were transferred to the General Department from other Departments on the commencement of the new Constitution from the 1st April 1937 and this has added to the already heavy work of the Department. Since the present Ministry took office the work in the General Department has increased particularly because it deals with most of the "nation-building" subjects, in connection with which the Ministry has raised large questions of policy, outlined comprehensive programmes and undertaken legislation. The following additional establishment has been sanctioned temporarily for one year in the first instance with effect from 1st November 1937:—

1 Senior Superintendent in the grade of Rs. 475—25—600 per mensem.

1 Senior Assistant in the grade of Rs. 210—15—300 per mensem.

4 Clerks in the grade of Rs. 50—3—95 per mensem.

[Appendix 4—contd.]

The general increase in work in the Department added considerably to the already heavy work of the one Assistant Secretary and consequently Government have sanctioned temporarily from 3rd January 1938 to 31st October 1938 in the first instance an additional post of a Junior Assistant Secretary in the new scale of Rs. 600—50—750—800 per mensem and a peon for him on Rs. 19 per mensem.

All these new posts may have to be continued further and perhaps sanctioned permanently if the work in the Department continues to be heavy. The extra expenditure during the current year will be met from the savings in the provision made for the General Department, which otherwise would have been available to reduce the additional grant asked for above.

No. 10. 27, Administration of Justice.

The latest actuals under the head "27, Administration of Justice" and the reports received from the officers concerned show that there will be an excess of Rs. 2,44,000 (including Rs. 1,35,000 for refunding monies, etc., forfeited in the Civil Disobedience Movement) over the voted grant of Rs. 42,77,000. The reasons for the excess expenditure under the minor heads concerned are given below:—

Law Officers.—The excess under this head is Rs. 17,000 and is due to increased expenditure on account of fees to pleaders in civil and criminal cases in the mofussil.

Presidency Magistrates' Courts.—The excess under this head is Rs. 17,000, and is due to provision being made in the budget for one of the two additional Presidency Magistrates and his staff for six months only, while the appointment was continued subsequently by Government up to the end of the year. It is also due to payment of increased rent for the Police Court at Dadar, and purchase of furniture, fixtures, etc., for that Court.

Civil and Sessions Courts.—The excess under this head is Rs. 69,000. This excess is due to the appointment of more non-I. C. S. officers as District and Assistant Judges, as a sufficient number of I. C. S. officers was not available for duty. There is a corresponding saving in the provision for I. C. S. officers. The excess is also due to increased expenditure on leave salary for subordinate establishments.

Criminal Courts.—The excess under this head is Rs. 6,000. This is due to increase in expenditure for diet and road money to witnesses due to several criminal cases in which a large number of witnesses had to be called from long distances.

Refunds.—Owing to the decision of Government to refund to the original owners the monies and sale proceeds of moveable properties which were forfeited to Government in consequence of the civil disobedience movement, an amount of Rs. 1,35,000 is required to be refunded. Although these refunds will, for purposes of accounts, be shown under

[Appendix 4—*contd.*]

the major head "XXI-Administration of Justice," they have been differentiated from the ordinary refunds of revenue, and a vote of the Legislative Assembly is necessary.

No. 11. 28, Jails and Convict Settlements.

In view of the latest actuals it is expected that the provisions for contingencies for District Jails and the provisions for "Jail Manufactures" will prove inadequate and an additional sum of Rs. 57,220 will be required. The excess is mainly due to high rates of contract for dietary in sub-jails, increase in the number of prisoners and increase in the rate of maintenance charges of children on remand, rise in price of raw materials such as wool, yarn, etc., and large purchase of materials for umbrella manufacture owing to the expansion of the industry at the Thana District Prison.

2. Additional expenditure in respect of the following items is also anticipated:—

	Rs.
(1) Grant-in-aid to the Bombay Presidency Probation and After Care Association	1,180
(2) The Criminal Tribes Inquiry Committee	1,000
(3) Final adjustment of the passage account of a Jail Department officer permanently transferred to Sind Government	3,069
(4) Charges in England—Leave salaries and deputation pay	6,320
	11,569

3. The total excess comes to Rs. 68,789.

No. 12. 29, Police.

The latest actuals under the head "29-Police" show that there will be an excess of Rs. 1,80,000 over the grant voted by the Legislative Assembly. The excess is under the minor heads "Presidency Police", "District Executive Force", "Criminal Investigation Department" and "Charges in England".

Presidency Police.—The increase of Rs. 86,000 under this minor head is mainly due to (1) smaller provisions sanctioned under "Pay of Establishment" and "Contingencies" under "City Police" for the year 1937-38, (2) compensation paid for acquisition of land at the C. P. Tank, (3) heavy repairs to chowkies and traffic boards, (4) more expenditure incurred for the up-keep of motor lorries of the Police Department owing to the increase in the rate of petrol and (5) the pay of the present incumbent of the post of the Deputy Commissioner of Police, Port, Bombay, who does not belong to the Indian Police, having been debited to the voted grant under "Pay of Officers" under which no provision for that officer was made.

[Appendix 4—contd.]

District Executive Force.—The increase of Rs. 80,000 under this minor head is mainly due to (1) more expenditure under "Pay of Establishment" owing to fewer vacancies in the police force due to good recruitment, (2) smaller provisions sanctioned under "Allowances" and "Contingencies" and (3) additional expenditure incurred for the following purposes:—

- (a) Deputation of extra policemen to Ahmedabad in connection with the mill strike and to Poona in connection with the Satyagraha agitation near the Sonya Maruti temple,
- (b) Grant of refreshment allowances to policemen on duty in connection with the mill strike at Ahmedabad,
- (c) Deputation of extra policemen on duty at the Congress Session at Haripura in the Surat District,
- (d) Purchase of a motor prison van in Poona,
- (e) Purchase of a site for a motor stand at Mahabaleshwar,
- (f) Purchase of water for policemen owing to the scarcity of rain in the Ahmednagar District,
- (g) Payment of enhanced water charges including arrears in some cases in the Thana, Ahmednagar and Bijapur Districts and also of conservancy charges in the Ahmednagar District,
- (h) Enhanced telephone rents in certain districts owing to the introduction of the Central Telephone Exchange and the installation of a few additional telephones in certain districts.

Criminal Investigation Department.—Out of the total increase of Rs. 11,000 under this minor head Rs. 7,000 is under the "Criminal Investigation Department (Bombay City)" and it is mainly due to increased expenditure for (1) service postage and telegram charges and (2) cost of photographic articles purchased for the Modus Operandi Bureau in Bombay. The increase of Rs. 4,000 under "Criminal Investigation Department (Presidency)" is due to increased expenditure on account of (1) extensive touring of the Criminal Investigation Department staff, (2) service postage and telegrams, (3) the purchase of ordnance stores on account of repairs to revolvers and (4) telephone charges due to the shifting of telephones.

Charges in England.—The increase of Rs. 3,000 under this minor head is due to the payment of leave salary in England to certain Police officers for which less provision existed.

No. 13.

37, Education.

A total excess of Rs. 9,55,000 is anticipated over the voted grants under "37-Education" on account of the following items:—

- (i) *Grants to Local Authorities (including the Bombay Municipality) for Primary Education Rs. 8,62,000.*—An additional amount of

[Appendix 4—*contd.*]

Rs. 8,62,000 is required to meet excess expenditure under this head. This excess expenditure is mainly due to the causes mentioned below:—

(a) *Arrears of grant to the Ahmedabad Municipality for Primary Education—Rs. 6,00,000.*—During the year Government issued orders that the grant to the Ahmedabad Municipality for primary education which had been withheld since 1930 for that body's participation in the Civil Disobedience Movement should be paid to it and that a sum of Rs. 6 lakhs should be paid during the current year as part payment of the arrears of Government grant due to that body.

(b) *Bombay Municipality: Compulsory Education—Rs. 2,15,000.*—A charged provision of Rs. 2,15,000 was made in the budget on account of the grant to the Bombay Municipality for its scheme of compulsory education. According to legal opinion the grant is purely voluntary and the provision for it should be voted. Out of the charged provision of Rs. 2,15,000 an amount of Rs. 20,500 is being reappropriated and the balance is being surrendered. An amount of Rs. 2,15,000 is required to be voted.

(c) The allotment for primary education for the Bombay Municipality has fallen short of the requirements by about Rs. 34,000.

(d) An excess expenditure of about Rs. 13,000 over the allotment for grants to local authorities other than the Bombay Municipality has occurred for the following reasons:—

(1) The District Local Board, Kaira, had to be given an additional grant towards its expenditure on primary education in the year 1932-33 which could not be admitted during that year for Government grant as the Board did not, for lack of funds, incur the expenditure before the close of the financial year, 1932-33.

(2) An additional grant had to be sanctioned for the District Local Board, Dharwar, on account of Government grant towards the salaries of the Board's teachers for two months of the last year which the Board had not paid during that year.

(3) The District Local Board, Satara, had to be given an additional grant in respect of Government's liability towards adjustments of Provident Fund contributions of teachers for previous years made by the Board.

(ii) *Payment of arrears of pay of clerks in Government educational institutions in Bombay City.*—Payment of arrears of pay amounting to Rs. 43,950 had to be made to clerks in Government educational institutions in Bombay City as it was due to them under the Fundamental Rules.

(iii) *Additional grants to the Karnatak College, Dharwar, and the Royal Institute of Science, Bombay—Rs. 8,000.*—As a result of the revision by the Bombay University of the courses in Chemistry for the B.Sc. Examination to be held in 1939, the purchase of apparatus for the teaching of the revised courses became a necessity at the Karnatak

[Appendix 4—*contd.*]

College, Dharwar, and at the Royal Institute of Science, Bombay. Government had accordingly to sanction a grant of Rs. 6,000 to the Karnatak College and of Rs. 2,600 to the Royal Institute of Science.

(iv) *Additional grants to Colleges for expenditure on Libraries—Rs. 4,000.*—During the current year Government permitted certain colleges to incur expenditure on their libraries against a corresponding income from library fees to be levied from students and credited to Government. An extra expenditure of Rs. 4,000 has been incurred on this account.

(v) *Additional allotment for grants-in-aid to non-Government Secondary Schools—Rs. 24,800.*—An annual saving of Rs. 24,800 has been regularly accruing to Government since 1936 as the proportionate share of the total saving effected by (a) the transfer of the Government High School, Hyderabad, to a private agency and (b) the closure of the Government Middle School, Surat. In accordance with the decision taken by Government on the recommendation of the Reorganisation Committee, these yearly savings are to be utilized for grants to non-Government Secondary Schools and during the last two years a supplementary demand has been sanctioned by the Legislature for the purpose. The current year's budget provision on this account has similarly to be increased by a supplementary grant of Rs. 24,800.

(vi) *Miscellaneous small items.*—A net total excess expenditure of about Rs. 11,650, which is expected to occur under various minor items in the major grant and could not be avoided, has also to be covered.

No. 14.

38, Medical.

Reorganisation of medical education at the Grant Medical College, Bombay.

The Triennial Inspection Committee on the Medical Colleges appointed by the University of Bombay, made certain criticisms in regard to the teaching at the Grant Medical College, and the Surgeon General, as a result of a further investigation, has put up proposals for a reorganisation of medical teaching at the College. Government are convinced that if the standard of medical education is to be improved and placed on a sound footing it is essential that the Surgeon General's proposals should be accepted. They are both conservative as regards cost and essential for an all-round improvement at the Grant Medical College. They comprise, as shown below, a reorganisation of the teaching staff for non-clinical subjects; a similar reorganisation of the staff for clinical subjects, involving the creation of medical and surgical units at the J. J. Group of Hospitals for purposes of clinical teaching; and

[Appendix 4—contd.]

thirdly minor alterations in regard to the non-teaching medical staff at the J. J. Hospital:—

—	Annual extra cost.	Annual extra saving.
	Rs.	Rs.
I—TEACHING STAFF FOR NON-CLINICAL SUBJECTS.		
(1) Conversion of the three part-time posts of Tutor in Embryology (Ra. 100 per mensem) and of Assistant Professors of Physiology and of Pathology (Ra. 175 per mensem each) into three full-time posts of Assistant Professors in the same subjects on a scale of pay of Ra. 200—40/3—400 (with Efficiency Bars at Ra. 240 and 320) plus Bombay Compensatory Allowance plus Ra. 50 per mensem each for loss of private practice	8,370	....
(2) Abolition of 8 posts of Senior and Junior Tutors (Ra. 100 and 75 per mensem) in the departments of Anatomy, Pathology, Physiology and Bacteriology and the creation in their stead of 11 posts of demonstrators on a pay of Ra. 50 per mensem each .. .. .	....	2,100
(3) Conversion of the two posts of tutors in Materia Medica and in Hygiene (Ra. 100 and 75 per mensem) into two posts of demonstrators on Ra. 50 per mensem each .. .. .	....	900
II—STAFF FOR CLINICAL SUBJECTS.		
A. J. J. Hospital.		
(1) Reorganisation of the clinical staff at the Hospital into six medical and six surgical units which involve the creation of 12 posts of Honorary Assistant Surgeons and Honorary Assistant Physicians and Tutors to be filled by highly qualified men on an honorarium of Ra. 85 per mensem each; one senior surgical tutor and one senior medical tutor being on Ra. 100 per mensem; and the abolition of 11 posts of tutors at the J. J. Hospital	6,600	....
(2) Change of tenure of the existing six posts of house surgeons and the existing six posts of house physicians from 6 months to one year; and creation of six new posts of house surgeons and six new posts of house physicians. The incumbents of these posts will be kept on an honorary basis for the first six months and will be given a stipend of Ra. 50 per mensem each for the latter six months	3,600	....

[Appendix 4—contd.]

	Annual extra cost.	Annual extra saving.
	Rs.	Rs.
B. Bai Mollibai and Petit Hospitals.		
(3) Reorganisation of the teaching staff into two units which involves the abolition of the Subordinate Medical Service post of second Resident Medical Officer and of the Tutor in Midwifery; the extension of tenure of the two posts of House Surgeons from six months to one year, and the creation of a post of Honorary Assistant Obstetric Physician and Tutor on Rs. 85 per mensem .. .. .	....	1,284
C. Sir C. J. Ophthalmic Hospital.		
(4) Reorganisation of the teaching staff into two teaching units which involves the abolition of four posts of Subordinate Medical Service officers, one post of Tutor and two posts of house surgeons for six months each and the creation of one post of Honorary Ophthalmic Surgeon (without honorarium), of one post of Bombay Medical Service Class II officer as Resident Medical Officer, of one post of Assistant Honorary Ophthalmic Surgeon, and Tutor in Ophthalmology on an honorarium of Rs. 85 per mensem and four posts of house surgeons on Rs. 50 per mensem each .. .. .	....	1,830
D. B. J. Hospital for Children.		
Abolition of one post of House Surgeon (Rs. 50 per mensem) and change of tenure of the existing two posts of House Physicians and one post of House Surgeon from six months to one year ..	600	....
III—NON-TEACHING MEDICAL STAFF AT THE J. J. HOSPITAL.		
Abolition of one Bombay Medical Service Class II post of Casualty Medical Officer and two Bombay Medical Service Class II posts of Surgical Registrar, and Medical Registrar; creation of two posts of clerks on Rs. 25—5, 2—55 plus compensatory local allowance; creation of two posts of short-term Casualty Medical Officers on Rs. 75 per mensem each in place of the three posts of short-term Casualty Medical Officers on Rs. 50 per mensem each ..	....	11,910

The net annual average cost involved in these proposals is Rs. 1,146. There will, however, be no actual extra expenditure during the current and the next year, as the incumbents of all the new appointments proposed to be sanctioned will start on the minima of their respective scales of pay. The sanction of the Legislative Assembly is requested to this scheme.

[Appendix 4—*contd.*]

2. The total voted provision made in the current year's budget under the head "38, Medical" is Rs. 38,47,000. It is reported that there will be a voted excess of Rs. 53,000. The excess is mainly due to additional expenditure of a contingent nature in several Government hospitals in Bombay City and Mental hospitals, such as (i) increased expenditure on diet and clothing to patients owing to higher tender rates and increase in the number of patients, (ii) purchase of a Thresh disinfector at the Central Mental Hospital, Yeravda, (iii) purchase of a sterilizer unit and 8 Lawson Tait beds for the Bai Motlibai and Petit Hospitals, Bombay. The excess expenditure is essential and inevitable.

No. 15. *47, Miscellaneous Departments.*

The total excess under the major head "47, Miscellaneous Departments" is Rs. 20,514 (Voted) and Rs. 7,040 (charged) which is accounted for as follows:

2. *Expenditure on account of the Textile Labour Inquiry Committee.*—A Labour Inquiry Committee was appointed in October 1937 to investigate the adequacy of wages and kindred matters in the textile industry in the Province of Bombay. The Committee has submitted an interim report but it is likely to take some months more for the Committee to submit a final report. The expenditure on account of the Committee till the 31st March 1938 is estimated at Rs. 13,370 as shown below:—

	Rs.
Salaries	6,300
Travelling allowance	5,120
Contingencies	1,950
	13,370

Out of this amount a sum of Rs. 5,293 will be met from savings and the net excess comes to Rs. 8,077.

3. *Additional expenditure under the Juvenile Branch.*—On the basis of actuals the provision of Rs. 56,000 made for "Grants-in-aid, contributions, etc." to meet expenditure involved in the administrations of the Bombay Children's Act, 1924, will need supplementing by Rs. 12,500. As savings of about Rs. 1,523 will be available, the additional grant required will be Rs. 10,977. The excess is mainly due to the increase in the number of committals by the Bombay Juvenile Court necessitating an increase in expenditure for food, clothing, bedding, etc., and payment of capitation fees. Government have also sanctioned an annual grant-in-aid of Rs. 300 to the Child Protection Society, Ahmedabad. The additional amount required is therefore Rs. 11,277.

4. *Appointment of Mr. D. Symington, I.C.S., as Special Enquiry Officer for Partially Excluded Areas.*—The improvement of the moral economic and social condition of the Bhils and other aboriginal and hill tribes in the partially excluded areas in the Province of Bombay is a special concern of Government. Government servants of all departments concerned with the partially excluded areas are charged with carrying out this policy, and the Backward Class Officer is charged with

[Appendix 4—contd.]

watching, co-ordinating and facilitating its execution. In order to ascertain in what ways this policy should be further developed and improved it was necessary to take stock of the present situation, enquire into the success or failure of past measures and consider what should be done in the future. Government therefore appointed Mr. D. Symington, I.C.S., on special duty from 1st November 1937 to 31st March 1938. No provision was made in the budget for expenditure on this special enquiry. The voted expenditure incurred during the current year on the pay, travelling allowance and contingencies of the staff employed under the Special Enquiry Officer amounted to Rs. 1,160 as follows:—

Pay of clerk at Rs. 85 per mensem for 4 months	..	Rs.	340
Pay of 1 typist for 1 month	.. ..	..	30
Pay of 1 peon at Rs. 18 per mensem for 4 months	..	..	72
Pay of 1 peon at Rs. 17 per mensem for 4 months	..	..	68
Travelling allowance for the staff	.. ..	..	400
Contingencies	.. ..	..	250
			1,160

Besides this, an expenditure of Rs. 7,040 (charged) has also been incurred on account of the pay and allowances of the Special Enquiry Officer himself.

5. The voted excess thus comes to Rs. 20,514.

No. 16.

50, Civil Works.

(1) *Excess over the provision for charged establishment charges—*
Rs. 88,485.

For purposes of Appropriation Accounts the "charged" ordinary establishment charges debitable to the several heads of accounts on *pro rata* basis are watched under the head "50, Civil Works". In the authenticated schedule of expenditure for the year 1937-38 provision to the extent of Rs. 1,00,500 for these charges has, however, been included under the heads mentioned below instead of under the head "50, Civil Works":—

Major head.				Amount included. Rs.
XVII	..	..	..	70,800
18	..	..	..	12,600
52	..	..	..	6,300
68	..	..	..	10,700
81	..	..	..	100
				1,00,500

It is accordingly proposed to supplement the provision under the head "50, Civil Works" to the extent of Rs. 88,485 after taking into account the saving of Rs. 12,015 already available under that head. The provisions under the other major heads mentioned above will be surrendered after taking into account requirements under those heads.

[Appendix 4—contd.]

- (2) *Construction of a road to the new port at Dholera in the Dhanduka Taluka, Ahmedabad District—Rs. 10.*

Estimated cost—Rs. 3,33,100.

Proposed Expenditure in 1937-38—Rs. 40,000.

In order to develop the new port of Dholera, which will be of inestimable benefit to the trade and prosperity of Dhanduka Taluka and the neighbouring parts of North Gujarat it is necessary to construct a good road from the port (which is at Magarkhadi Creek) to Dholera, 14 miles away, where there is a fairly good Public Works Department road to the railway terminus at Dhanduka. From Dholera to Rah Talao, four miles away, there is an old District Local Board road which the Board will repair as its contribution to the scheme. From Rah Talao to the new port 10 miles away, a new road is required over the salt flats. The Talukdars through whose land the road will pass will give the land free of cost. The merchants of Dholera, through the Port Reconstruction Committee, have spent much money in preliminary work.

The Board of Communications has recommended this work and the Government of India have agreed to pay from their reserve in the Central Road Fund a sum of Rs. 3,00,000 towards its cost, the balance being met from the share allotted to this Province in the Road Fund. The accounting procedure, however, requires that the whole amount should be met by this Government, the amount contributed by the Government of India from their reserve being treated as additional receipts of this Government in the Central Road Development Account.

Towards the end of September 1937, the Superintending Engineer, Northern Circle, reported that owing to the difficulty in arranging for a supply of potable water it would be difficult to get work done in the hot weather and it was therefore necessary that as much work as possible should be completed in the cold weather. In view of this urgency earth-work and masonry works costing Rs. 1,00,951 have been undertaken as a first instalment.

The amount required for expenditure during the current year will be made available from the grant sanctioned under the major head 50, Civil Works—Provincial (Voted). As, however, the expenditure relates to a new service, the sanction of the Legislative Assembly is requested to a token sum of Rs. 10.

- (3) *Extension of the Labour Ward and construction of quarters for House Surgeons at the Cama and Alibless Hospitals, Bombay—Rs. 10.*

Estimated cost—Rs. 23,654 (in works expenditure or Rs. 30,041 inclusive of Public Works Department establishment and tools and plant charges at 27 per cent.)

Proposed Expenditure in 1937-38—Rs. 22,000.

To meet the present demand it has become necessary to extend the Labour Ward at the Cama and Alibless Hospitals, Bombay, and to provide quarters for House Surgeons on the top of that Ward as there are at present no quarters for them in the Hospital compound. Mrs. C. D'Monte, Retired Medical Officer of the Hospital, has given a cash

[Appendix 4—contd.]

donation of Rs. 16,000 towards the scheme and Government have agreed to provide the remaining amount.

According to the accounting procedure relating to such cases, the contribution has to be split up into (a) works outlay and (b) centage charges (excluding the audit charge) as under :—

	Rs.
(a) Works outlay	12,365
(b) Establishment (including pensionary charges) and tools and plant charges at 29·4 per cent.	3,635
	16,000

The amount to be provided by Government thus comes to Rs. 11,289 (Rs. 23,654 *minus* Rs. 12,365). The Public Works Department centage charges (27 per cent.) on the Government portion of the works outlay would amount to Rs. 3,048. The amount actually required however comes to Rs. 9,635 (Rs. 9,417 for original work *plus* Rs. 218 for repairs) only. This is mainly due to some amount recovered from a contractor, who had abandoned the work, having been credited to the work. As the work was of an urgent nature and as the contribution from the donor was already available, it was started during the course of the current financial year. Funds for the Government portion will be made available from savings in the sanctioned grant for the year under the head 50-Civil Works—Provincial (Voted). As the expenditure relates to a new service, the sanction of the Legislative Assembly is requested to a token grant of Rs. 10.

(4) *Construction of two new storage reservoirs at the J. J. and C. J. Ophthalmic Hospitals, Bombay—Rs. 10.*

Estimated cost—Rs. 15,442 (works expenditure or Rs. 19,611 inclusive of Public Works Department establishment and tools and plant charges at 27 per cent.).

The present water supply at the J. J. and C. J. Ophthalmic Hospitals, is inadequate and danger to life has been occasioned and was likely to recur owing to the shortage of water. It was therefore necessary to improve it by constructing two storage reservoirs at ground level with electric pumping sets to overhead tanks on (1) the Elappa Balaram Pavilion and Ward Pavilion No. 1, Sir J. J. Hospital and (2) the Sir C. J. Ophthalmic Hospital. Owing to the danger involved the work was taken up at once. The cost will be met from savings in the sanctioned grant for the current year under the head 50-Civil Works—Provincial (Voted) but as the work is a new service sanction of the Legislative Assembly is requested to a token grant of Rs. 10.

(5) *Special Tools and Plant required for communication works financed from the Petrol Tax Fund—Rs. 10.*

Estimated cost—Rs. 93,025.

Proposed expenditure in 1937-38—Rs. 92,900.

With the prior approval of the Government of India (which is required before expenditure on tools and plant can be debited to the Central

[Appendix 4—contd.]

Road Development Account) special tools and plant costing Rs. 47,900 have been sanctioned for the Thana and Surat and Broach Divisions and similar expenditure of Rs. 45,000 of the Ahmednagar and Poona Irrigation Division has been sanctioned. The expenditure will be met from savings under the head 50-Civil Works—Provincial (Voted) but as each of the two estimates mentioned above exceeds Rs. 10,000, it is to be treated as a major work, and the sanction of the Legislative Assembly is required. A token grant of Rs. 10 is therefore requested.

(6) *Improvements to roads leading to the Congress Nagar (Vithalnagar) at Hariपुरa in the Surat and Broach Division—Rs. 10.*

Estimated cost of improvements—Rs. 65,163 (in works expenditure or Rs. 82,757 inclusive of Public Works Department Establishment and Tools and Plant Charges at 27 per cent.).

Proposed expenditure in 1937-38—Rs. 73,172 (Rs. 63,172 for improvements plus Rs. 10,000 on account of special grant-in-aid to the District Local Board, Surat).

In order to cope with the heavy traffic expected during the last Congress Session at Hariपुरa it was necessary to carry out improvement to the Provincial road from Madhi to Mandvi at a cost of Rs. 36,460 as shown below :—

	Rs.
(i) Improvements to Madhi-Mandvi Road (surface painting)	28,725
(ii) Improvements to Madhi-Mandvi Road, including link road (reducing dust on side widths) ..	7,735
	<hr/>
	36,460

2. In addition, it was also necessary to improve the District Local Board road from Kadod to Tarsada, miles 1/0 to 5/4. Since, however, the District Local Boards finances did not permit of this being done, Government took upon themselves to carry out the necessary improvements by temporarily provincializing this portion, on the distinct understanding that the District Local Board took back the road after the Congress Session was over. The cost of these improvements is Rs. 26,712 as detailed below :—

	Rs.
(i) Surface painting	20,915
(ii) Improvements to the side widths	2,097
(iii) Improvements to the road reducing dust on the side widths	3,700
	<hr/>
	26,712

3. It was essential to allow two way traffic, leaving some space for pedestrians on either side and also to minimise the dust nuisance as much as possible, lest it unduly held up traffic and was a source of

[Appendix 4—contd.]

danger to the health of travellers. As the matter was urgent, Government issued orders to carry out at once these improvements estimated to cost Rs. 65,163 in all.

Besides this expenditure of Rs. 63,172 on improvements to the roads, Government also sanctioned a special grant of Rs. 10,000 to the District Local Board, Surat, to be spent on the following roads :—

	Rs.
(i) Bardoli-Kadod Road	5,450
(ii) Kadod-Tarsada Road (first mile only) ..	700
(iii) Kadod-Balda Road	650
(iv) Puna-Un Road	1,800
(v) Bardoli Purna river Road	800
(vi) Kabilpore Junction (near Navsari) to Purna river Road	600
	<hr style="width: 100%; border: 0.5px solid black;"/>
	10,000

This grant-in-aid was sanctioned on condition that it was spent only on the roads mentioned above and that any unspent money was refunded to Government.

The total expenditure to Government on roads on account of the Congress Session thus amounts to Rs. 73,172 :—

	Rs.
(i) Improvements to the Provincial road ..	36,460
(ii) Improvements to the District Local Board road.	26,712
(iii) Grant-in-aid to the District Local Board ..	10,000
	<hr style="width: 100%; border: 0.5px solid black;"/>
	73,172

This expenditure will be met from savings in the sanctioned grant for the year under the head 50-Civil Works—Provincial (Voted). As however expenditure on items (i) and (ii) is classifiable under "original works"; for which no provision has been made in the Budget of the year, sanction of the Legislative Assembly is requested to a token grant of Rs. 10.

(7) *Scarcity works in the Bijapur District*—Rs. 10.

Estimated cost—Rs. 1,84,826 (in works expenditure or Rs. 2,34,729 inclusive Public Works Department establishment and tools and plant charges at 27 per cent.).

Proposed expenditure in 1937-38—Rs. 25,844.

[Appendix 4—contd.]

In order to meet scarcity conditions in the Bijapur District the following works were opened for the relief of the people living in the area affected :—

	Estimated cost. Rs.	Proposed expenditure in 1937-38. Rs.
(1) Improving miles 2, 3, 12, 13, 14 and 16 of Muddebihal-Chimalgi Road.	28,897	9,000
(2) Improving Bijapur-Kagwad Road, Section I	29,795	2,000
(3) Widening Belgaum-Hungund Road, Section from Kamatgi to Hungund	49,308	1,200
(4) Reserve metal collection 4" thick on Tikota-Nagaz Road	25,052	9,000
(5) Reserve metal collection on Bijapur-Shindgi Road, Section II	51,774	4,644
(6) Improvements to Muddebihal-Chimalgi Road	18,013	250
Total ..	2,02,839	26,094

These works were taken up after the Budget for the year was authenticated. The amount required is being met from the lump provision of Rs. 9,05,000 made under the head 50-Civil Works—Provincial for scarcity works, *vide* Item 50 on page 286 of the current year's Budget. These works are brought to the notice of the Legislative Assembly as they are major works (each estimated to cost more than Rs. 10,000) and sanction is requested to a token grant of Rs. 10.

(8) *Reopening of the Bijapur Division.*

In September last the Superintending Engineer, Southern Circle, submitted to Government a detailed report explaining the necessity for the immediate reopening of the Bijapur Division. The purport of that report is given below in the Superintending Engineer's own words :—

"The exceptionally heavy charge of the Belgaum Division has now become far too heavy for one Executive Engineer to cope with and it has now become immediately necessary to re-open the Bijapur Division in order to avoid a break down in the administration and the efficiency of that charge. Apart from scarcity conditions in Bijapur District the number of works in progress has considerably increased in the last year or so and this is expected to still further increase with the large expansion of the Petrol Tax programme. The scarcity conditions in Bijapur District have necessitated the starting of 9 Petrol Tax works and 3 other works in that area and many more will still be required to be opened if the distress there deepens, as there appears to be every prospect of at the moment. It is the situation in Bijapur which has now made the immediate reopening of Bijapur Division imperative as it is now becoming physically impossible for the charge to be managed by one Executive Engineer. It is already quite impossible for him and his staff to devote their attention properly to

[Appendix 4—*contd.*]

all matters, as they simply have not the time for it. Scarcity or famine works, so long as they last, entail a tremendous amount of close supervision as they are equivalent to works carried out departmentally. Apart from the scarcity conditions, which have merely accentuated the position, the Belgaum Division, as at present constituted, is too unwieldy. It spreads over the Collectorates of Ratnagiri (part), Belgaum (whole) and the greater part of Bijapur, has an area of approximately 8,800 square miles with a provincial road mileage of 732, the largest length, it is believed, held by one Division. Apart from 524 second class irrigation tanks it possesses in the Gokak Canal System the only irrigation work of major importance in the Southern Circle. The Belgaum and Dharwar Divisions cover the area originally managed by the Belgaum, Dharwar, Dharwar Irrigation and Bijapur Divisions. The reduction from four to two was made owing to the then imperative necessity of retrenchment above all other considerations. The Dharwar Division has also become very unwieldy due to the large increase in Petrol Tax and other works and, if the new programme of repairs to II class irrigation tanks is approved, that in itself will give a very large amount of extra work. By the opening of the Bijapur Division, Dharwar Division will also obtain some much-needed relief."

The Commissioner, Southern Division, strongly supported the Superintending Engineer. The question of opening the Bijapur Division was fully considered by Government in further consultation with the Superintending Engineer and the Commissioner and various alternative proposals were examined. Finally Government were satisfied as regards the necessity of reopening the Division, particularly in view of the severe scarcity conditions in the Bijapur District, and the minor irrigation schemes to be undertaken there. Orders were accordingly passed for the reopening of the Division on a temporary basis for one year with effect from the 1st February 1938.

2. The new Division comprises four Sub-divisions, viz. Bijapur, Indi and Bijapur Scarcity Works Sub-divisions transferred from the Belgaum Division and Bagalkot Sub-division transferred from the Dharwar Division. The following establishment required for the Bijapur Divisional Office has been sanctioned :—

	Scale of pay. Rs.
1 Head Clerk	115—5—160
1 Accountant (the additional Accountant in the Belgaum Divisional Office to be transferred to the Bijapur Division).	100—10—270— 30,5—300
1 Senior Accounts Clerk .. .	95—5—115
2 Clerks (one clerk to be transferred from the Belgaum Divisional Office and the other clerk from the Dharwar Divisional Office).	70—5—95

[Appendix 4—contd.]

		Scale of pay.
		Rs.
4 Clerks (one clerk to be transferred from the Belgaum Divisional Office and one clerk from the Dharwar Divisional Office and two clerks to be newly appointed).		25-5/2-65 (Rs. 30 to a qualified clerk).
1 Store-keeper		40-4-80 (plus conveyance allowance of Rs. 3 per mensem).
1 Draftsman		90-5/2-140
1 Assistant Draftsman		50-5/2-90
1 Tracer		40
1 Daftary		25
1 Naik		17
2 Chowkidars		15
4 Menials		14

3. The net extra cost involved during the current year on account of the new Division is Rs. 1,236 (Rs. 105 charged + Rs. 1,131 voted) and has been met from savings. As this expenditure relates to a new service, sanction of the Legislative Assembly is requested to the grant of a token sum of Rs. 10.

No. 17.

54, Famine.

Under Section 7 (1) of the Bombay Famine Relief Fund Act, 1936, the accounts of the fund are to be made up at the end of each financial year, the securities belonging to the fund being valued at their market value on the last day of such year. Section 7 (2) of the Act provides that if the accounts so made up show that the balance in the fund at the end of such year falls short of Rs. 63 lakhs, the deficit should be made up from the revenues of the Province. In the budget estimate of 1937-38 it was anticipated that the deficiency to be made good from the revenues of the Province at the beginning of 1937-38 would amount to Rs. 3,10,000. The market value of the securities, however, fell below expectation and a sum of Rs. 3,79,475 was required to make up the deficiency in the fund. The amount of Rs. 3,10,000 had been provided in the budget as voted, but as it has since been decided that the provision is charged, a sum of Rs. 3,79,475 (charged) will be required during 1937-38 under the head "54-B" on this account. To this will have to be added a charged expenditure of Rs. 2,969 under the head "54-A" on account of the cost of Mr. R. S. Mani, I.C.S., who was appointed Scarcity Assistant to the Collector of Broach and Panch Mahals from 3rd May to 31st July 1937. The net excess, therefore, comes to Rs. 3,82,444 or Rs. 3,82,500 in round figures.

[Appendix 4—contd.]

No. 18.

56, Stationery and Printing.

The latest actuals indicate that there will be an excess of Rs. 2,65,000 during the current year for the reasons given below :—

(i) *Purchase of Stationery Stores.*—The excess is due chiefly to the following reasons :—

(1) Purchase of additional paper, stationery, etc., for (i) Assembly and Council elections, (ii) new offices and (iii) additional works done at the Government Central Press including those for the Sind Government ;

(2) Increased rates for straw boards and kraft paper ; and

(3) Kraft paper ordered last year but received in 1937-38.

(ii) *Government Central Press.*—The excess is due mainly to (a) the printing of (i) reports, etc., received from Sind, (ii) supplements of Bombay Code, (iii) additional issues of budget estimates, (iv) electoral rolls for Legislative Assembly, etc. ; and (b) extra payments on account of (i) revised leave rules and (ii) bonus and overtime.

(iii) *Yeravda Prison Press.*—The excess is due mainly to (a) printing of destandardised forms and Village Panchayat forms and (b) additional work received from the Central Government.

(iv) *Charges in England.*—The excess is due mainly to the purchase of a larger quantity of paper, stationery and drawing articles from England.

No. 19.

57, Miscellaneous.

An excess of Rs. 95,131 (Rs. 831 Charged and Rs. 94,300 Voted) is expected under the head 57, Miscellaneous for the following reasons :—

2. *Charges on account of vagrants.*—An excess of Rs. 7,000 is expected on account of deportation charges of bad characters.

3. *Special Commissions of Enquiry.*—Expenditure to the extent of Rs. 831 (Charged) and Rs. 493 (Voted) has been incurred during the current year on account of the pay of the Secretary to the Stock Exchange Enquiry Committee and the passage of one of the members of the Committee.

4. *Irrecoverable temporary loans and advances written off.*—The estimate of Rs. 38,000 is expected to be exceeded by Rs. 14,000 mainly on account of the writes off of arrears of tagai loans due from (1) khatadars in Dhandhuka Taluka of the Ahmedabad District and (2) one Mr. Nilekani of Sirsi Taluka of Kanara District who had no means of repaying the amount outstanding against him.

5. *Contributions.*—Under section 12 (2) of the Local Boards Act, the first publication of voters' list must be made at least three months before the date of the general elections. The triennial elections of the

[Appendix 4—contd.]

local boards in the Northern and Central Divisions were due in the months of January and February of this year and the voters' lists were accordingly printed in almost all the districts and kept ready for first publication. In the meantime Government decided to revise the constitution of the district local boards by abolishing nominations, increasing the number of seats and giving elective representation in joint electorates to Harijans, backward tribes, women, etc. The Bombay Local Boards Act has been so amended and orders regarding the revised constitution of, and constituencies of, district local boards in the Northern and Central Divisions have been issued. The new elections of these boards under the revised constitution will take place shortly. Section 11 (1) of the Local Boards Act requires that the voters' lists shall be prepared by constituencies and it is, therefore, necessary to get the voters' lists reprinted for each of the revised constituencies as finally approved by Government. A sum of Rs. 11,400 is required for expenditure in this connection during the current year.

6. *Miscellaneous and unforeseen charges.*—An excess of about Rs. 1,500 is expected on account of travelling allowance charges of Government nominees on the Board of Directors of the East India Cotton Association.

7. *Illumination of Provincial buildings on the occasion of the Coronation of Their Majesties.*—Government decided that important provincial buildings should be illuminated, on the occasion of the Coronation of Their Majesties, as they were on the occasion of the Silver Jubilee. In all, Government buildings in 22 towns were illuminated. In places like Kaira, Karwar, Alibag and Ratnagiri where electric current was not available, the buildings were illuminated by country lights. Illumination took place on two days, viz. 12th and 13th May 1937, from 7-30 p.m. to 12 standard time (midnight) except at Bombay, Ahmedabad and Poona where the period was extended until 2 a.m. on the days following.

The total expenditure incurred is Rs. 77,406 as shown below :—

	Rs.
Works outlay	60,950
Establishment charges—Voted	14,628
Tools and plant charges	1,828
	77,406

The establishment, etc., charges are, however, for accounts purposes only.

8. The total voted excess thus comes to Rs. 1,11,799 or Rs. 1,11,800 in round hundreds. Savings to the extent of Rs. 17,500 are available under different minor heads and the net voted excess comes to Rs. 94,300.

[Appendix 4—contd.]

No. 20. • 63, Extraordinary Charges.

Government have, in concurrence with the legislature, decided to restore to the original holders lands which were confiscated in consequence of participation in the civil disobedience movement and sold to third parties. It is estimated that an expenditure of Rs. 30,500 will be incurred on this account, during the year 1937-38. As no provision was made for the purpose in the current year's budget under the head "63, Extraordinary charges" under which large payments of non-recurring character are recorded, the sanction of the Legislative Assembly is requested to an additional demand of Rs. 30,500.

No. 21. 70, Capital Outlay on Improvement of Public Health.

There are twenty plots in the Wilson Garden Development area at Poona. Six buildings have been completed and buildings in three of the plots are nearing completion. The plot owners find it very expensive to take water connections from the Sassoon Road which is at a distance of 500 feet from their plots. As there were many demands for supplying water, Government have decided to provide a 3" diameter pipe for the area at an estimated cost of Rs. 4,950 including centage charges. When the water supply is provided, the whole area will soon be developed. As the work was considered urgent, permission was accorded to take it in hand. The expenditure during the current year amounts to Rs. 3,437 as shown below:—

	Rs.
Works—outlay	2,834
Establishment charges—voted	518
Tools and Plant charges	85
	3,437

In addition to Rs. 3,437, a charged expenditure of Rs. 162 will be incurred. The expenditure in the current year will be met from savings. As however the expenditure relates to a new service, the sanction of the Legislative Assembly is requested to a token grant of Rs. 10.

No. 22. 80, Bombay Development Scheme.

Between 1927 and 1931 Messrs. Mugaseth and Sons were employed by Government to do the work of dry filling of the Back Bay Reclamation Scheme. Certain stores including certain railway tracks and sidings in Blocks Nos. I, II and VIII of the Back Bay Reclamation Scheme and at Kandivli were lent to them on condition that on the expiry or termination of their contract they should be returned to Government in the same condition as when they were handed over to them, fair wear and tear excepted. In August 1929 the phrase "fair wear and tear" was

[Appendix 4—*contd.*]

defined in relation to the sleepers, which were in constant use, and it was mutually agreed between the Executive Engineer, Back Bay Reclamation Division, and the contractors that the sleepers handed over to the contractors should be considered to have a maximum life of three years commencing from 1st December 1927.

On the expiry of the contract for the dry filling, Government took possession from the contractors of certain railway tracks and sidings along with the sleepers at Kandivli. The contractors contended that, by reason of the arrangement mentioned above, Government gave up their right to claim the return of their sleepers at the expiry of the agreed life of the sleepers which were supposed to be then non-existent, and that they were not bound to return any sleepers to Government. They therefore claimed Rs. 82,357-8-0 being the cost of 10,981 sleepers at Rs. 7-8-0 per sleeper of which they alleged possession was wrongfully taken from them, or in the alternative, Rs. 45,607-8-0 being the cost of 6,081 sleepers replaced by them at their own cost, which were included in the said 10,981 sleepers.

Government were advised that for the purposes of the liability of the contractors to return the materials lent, the whole of the comparatively cheap sleepers lent to them by Government should be considered non-existent at the end of three years and that it would be expedient for Government to settle the suit on the basis of the contractors' right to retain the sleepers which in fact were handed over by them to Government. The number of sleepers which was actually handed over at Kandivli was 7,871. The suit was accordingly settled by Government by payment to the contractors of a sum of Rs. 24,000 in full and final settlement of all their claims including the costs of the suit. The payment was made in September 1937.

The item was not provided for in the Budget of 1937-38 but the expenditure is being met from savings. The sanction of the Legislative Assembly is requested to a token demand of Rs. 10.

No. 23. *83, Payments of commuted value of pensions.*

The latest actuals indicate that during the year 1937-38 there will be net excesses of Rs. 1,23,000 (charged) and Rs. 95,000 (voted) under this head. They are mainly due to a larger number of cases in which commutations of pensions were sanctioned than anticipated when the budget estimates were framed.

No. 24. *85, Payments to Retrenched Personnel.*

No provision was made in the budget estimate for 1937-38 under the above head for payments of gratuities to retrenched personnel, as no such expenditure was expected at the time of framing the budget estimate. There was, however, a minus provision of Rs. 54,000 under this head on account of write back to "55, Superannuation allowances and pensions" for which no demand was necessary. During the course

[Appendix 4—contd.]

of the year claims for gratuities arising mostly from peons and other inferior staff, relating to the previous year were settled and paid. The total expenditure anticipated in the current year on this account amounts to Rs. 829. As the net expenditure is a minus figure sanction is requested to a token demand of Rs. 10.

No. 25. *Permanent debt discharged.*

Represents the balance of the Bombay Development loan expected to be discharged in the current year.

No. 26. *Loans from the Central Government.*

The consolidated debt is being repaid to the Government of India in fixed half-yearly equated instalments of principal and interest. During the current year interest was due for 10 months only instead of for 12 months as provided in the budget but the instalments being fixed the reduction in interest charges has resulted in a corresponding increase in the portion of principal repaid.

No. 27. *State Provident Fund.*

The excess is based on current actuals.

No. 28. *Famine Relief Fund.*

Mainly due to larger famine expenditure.

No. 29. *Provincial Road Fund.*

Represents investments in treasury bills of sums to be transferred to this fund in 1937-38 and of the further amount that became available in the final accounts of 1936-37.

No. 30. *Advances repayable.*

The charged excess is mainly due to larger forest advances.

The net increase of Rs. 50,000 under "Advances Repayable" is due to larger expenditure (Rs. 88,000) being anticipated mainly on account of refunds of revenue deposits. This increase is partly counterbalanced by saving of Rs. 37,000 under "Objection-book advances", and after taking into account the saving under other minor heads, the net voted excess expenditure amounts to Rs. 50,000.

Nos. 32-33. *Accounts with the Government of Burma and Reserve Bank.*

These are new heads and in the absence of any data, no provision was made in the budget estimate. The excesses are based on current actuals.

[Appendix 4—contd.]

No. 34.

Suspense Accounts.

Of the total increase, Rs. 1,59,70,000 is on account of the investment of cash balances in Government of India treasury bills, Rs. 51,80,000 is under the minor head "Central Accounts Office—Reserve Bank suspense" which represents transactions of other Provincial Governments, Government of India, Indian Stores Department, etc. and the remainder is under the minor head "Suspense Account" which is based on the transactions so far recorded on the Accountant General's books.

No. 35.

Departmental and Similar Accounts.

The excess is based on the latest actuals.

No. 36.

Miscellaneous Government Account.

The three long dated loans of the Bombay Municipal Corporation included in the consolidated debt are being repaid in fixed half-yearly equated instalments of principal and interest. Interest during the current year is due for 10 months only instead of for 12 months as provided in the budget; but the instalment being fixed, the reduction in interest charges has resulted in a corresponding increase in the portion of principal repaid and this mainly accounts for the excess.

No. 37.

Loans and Advances by Provincial Government.

The current year's sanctioned grant for loans and advances by the Provincial Government is Rs. 8,46,000. This grant has been largely exceeded on account of the unforeseen agricultural conditions prevailing in the Presidency. Owing to the failure of rains there has been great scarcity of fodder and this has resulted in increased demands for tagai by agriculturists mainly for purchase of fodder or for raising fodder crops by construction of bunds and wells. The position in the Northern and Central Divisions has now considerably improved but the scarcity conditions in Bijapur in the Southern Division still continue. So far it has been necessary to supplement the allotments already placed at the disposal of the Commissioners out of the current year's sanctioned estimate, by nearly Rs. 6 lakhs. A loan of Rs. 75,000 has also been sanctioned to the Bijapur Municipality for financing certain scarcity works. After taking into account the savings anticipated in the sanctioned estimate under other classes of the Provincial Loans and Advance Account, it is estimated that there will be a net excess of Rs. 4,93,000.

No. 38. *Cash remittances and adjustments between officers rendering accounts to the same Accountant-General.*

No. 39. *Remittances by Bills.*

No. 40. *Adjusting Account between Central and Provincial Governments.*

No. 41. *Inter-Provincial Suspense Account.*

The excesses under these heads are based on the latest transactions recorded. The nature of these transactions has been explained in paragraph 272 of the Budget Memorandum for 1938-39.

APPENDIX 5.

L. A. BILL No. XI OF 1938.

An Act to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for certain purposes.

(As read for the third time and passed on the
6th April 1938.)

WHEREAS it is expedient to amend the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for certain purposes; It is hereby enacted as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Bombay District Municipal and Municipal Boroughs (Amendment) Act, 1938.

(2) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint.

2. *Amendment of section 10 of Bom. III of 1901.*—In the Bombay District Municipal Act, 1901, hereinafter called the District Act, clause (b) of sub-section (1) of section 10 and the proviso to the said sub-section shall be deleted. Bom.
III.
1901

3. *Amendment of section 11 of Bom. III of 1901.*—In section 11 of the District Act, clause (b) in sub-section (1) shall be deleted.

4. *Amendment of section 27A of Bom. III of 1901.*—In sub-section (1) of section 27A of the District Act for the words, figures, letter and brackets beginning with the words “of three councillors” and ending with the words “of the Crown”, the words, figures, letter and brackets “of four councillors of whom one shall be the President of the Municipality and the other three shall be elected in accordance with rules made under clause (a) of section 46 and of two persons appointed by the Provincial Government, both of whom may be salaried servants of the Crown” shall be substituted.

5. *Amendment of section 33 of Bom. III of 1901.*—In section 33 of the District Act, the proviso to sub-section (1) shall be omitted.

6. *Amendment of section 9 of Bom. XVIII of 1925.*—In sub-section (1) Bom. of section 9 of the Bombay Municipal Boroughs Act, 1925, hereinafter ^{XVII} called the Boroughs Act, clause (b) and provisos to the sub-section shall ₁₉₂₅ be deleted.

7. *Amendment of section 10 of Bom. XVIII of 1925.*—In section 10 of the Boroughs Act,—

(1) clause (b) of sub-section (1) shall be deleted;

[Appendix 5—contd.]

(2) in clause (c) of the sub-section—

(a) for the words “ Non-Muhammadans and depressed classes ” the words “ and Non-Muhammadans ” shall be substituted ;

(b) after the words “ by each ward ” the words “ and the number of seats to be reserved in each ward for women or for any tribe, caste or community and prescribing the manner in which the Muhammadans in any municipal borough may declare that all the wards constituted for their community be abolished ” shall be inserted ;

(c) after the words “ regulating generally such elections ”, the following proviso shall be added, namely :—

“ Provided that rules so made shall not provide for the reservation of seats in any ward for the representatives of any tribe, caste or community—

(a) other than—

(i) a backward tribe,

(ii) Harijans, or

(iii) any community, the members of which are under the Fifth Schedule to the Government of India Act, 1935, entitled to separate constituencies for electing representatives to the Bombay Legislative Assembly, and

(b) unless the Provincial Government is of opinion that the reservation of such seats is necessary having regard to the population of such tribe, caste or community in the municipal borough ;”

(3) for the explanation to the sub-section, the following explanations shall be substituted :—

“ *Explanation.*—For the purpose of this section—

(1) A Harijan shall mean a member of a scheduled caste as defined in the Government of India (Scheduled Castes) Order, 1936 ;

(2) A backward tribe shall mean a tribe specified in Part II of the Thirteenth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936.”

(4) After sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) If at any time the Muhammadans in any municipal borough who are qualified voters declare either unanimously or by majority in the manner prescribed by rules made under sub-section (1) that all the wards constituted for their community in such municipal borough be abolished, the Provincial Government shall abolish all such wards and may also make rules prescribing the manner in which the representation of the said community shall be secured in such municipal borough :

[Appendix 5—*contd.*]

Provided that notwithstanding anything contained in the proviso to sub-section (1) the rules so made shall provide for reservation for the representatives of the Muhammadan community of such number of seats in such wards in the municipal borough as is, in the opinion of the Provincial Government, necessary having regard to their population in such municipal borough."

8. *Amendment of section 37A of Bom. XVIII of 1925.*—In sub-section (1) of section 37A of the Boroughs Act for the words, figures, letter and brackets beginning with the words "of three councillors" and ending with the word "Crown", the words, figures, letter and brackets "of four councillors of whom one shall be the President of the municipality and the other three shall be elected in accordance with rules made under clause (a) of section 58 and of two persons appointed by the Provincial Government, both of whom may be salaried servants of the Crown" shall be substituted.

9. *Saving.*—(1) Nothing in this Act shall affect any municipality constituted under the District Act or the Boroughs Act or any committee of such municipality constituted immediately before the commencement of this Act, and no appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by or in respect of such municipality or committee shall be deemed to be invalid by reason only of the fact that this Act has come into force.

(2) Notwithstanding anything contained in this Act, any casual vacancy in such municipality or any committee thereof shall, in the case of a municipality constituted under the District Act subject to section 17 of the said Act and in the case of a municipality constituted under the Boroughs Act subject to section 25 of the said Act, be filled in the manner provided by either of the said Acts, as the case may be, as if this Act had not come into force.

APPENDIX 6.

L. A. BILL No. XII of 1938.

An Act to repeal the Bombay Special (Emergency) Powers Act, 1932.

(As read for the third time and passed on the 6th April 1938.)

WHEREAS it is expedient to repeal the Bombay Special (Emergency) Powers Act, 1932; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Special (Emergency) Powers (Repeal) Act, 1938.

2. *Repeal of Bom. XVI of 1932.*—The Bombay Special (Emergency) Powers Act, 1932, is hereby repealed.

Bom.
XVI
of
1932.

APPENDIX 7.

L. A. BILL No. XIV OF 1938.

An Act to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay.

(As read for the third time and passed on the
13th April 1938.)

WHEREAS it is expedient to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay for the purpose herein-after appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Lunacy (Bombay Amendment) Act, 1938.

2. *Insertion of new section 33A in Act IV of 1912.*—In the Indian Lunacy Act, 1912, after section 33, the following new section shall be inserted, namely:—

“33A. *Temporary release of lunatics.*—(1) When any relative or friend of a lunatic detained in any asylum under the provisions of section 7, 10, 14, 15 or 17 is desirous that such lunatic shall be temporarily released and delivered over to his care and custody, he may make an application to the person in charge of the asylum, who shall make an order for the temporary release of such lunatic for a period not exceeding sixty days, unless for any reason he considers that such release is undesirable and such lunatic shall, thereupon, be so released.

(2) No order under sub-section (1) for the temporary release of a lunatic detained under section 7 or 10 shall be passed except on an application of the petitioner on whose petition such lunatic was detained or without the consent in writing of such petitioner:

Provided that, if in any such case, it appears to the person in charge of the asylum that such petitioner refuses, without sufficient reasons, to accord such consent, he shall refer the application made to him under sub-section (1), to the magistrate who would have jurisdiction to detain such lunatic under section 7 or 10 and such magistrate may, after making such enquiry as he thinks fit, order the temporary release of such lunatic for the period specified in sub-section (1).

(3) Any order made for the release of a lunatic under sub-section (1) may, on the application of any relative or friend, at any time during the period of his release, be set aside or varied by the magistrate who would have jurisdiction to detain such lunatic in an asylum under section 7, 10, 14, 15 or 17 on any ground other than that the lunatic was not in a state of mind fit to be released at the time the order for his release was made under sub-section (1). If the order of release is so set aside, the lunatic shall be re-admitted and detained in the asylum.

[Appendix 7—concl.]

(4) If a lunatic released under sub-section (1) or (2) is, at any time during the period of his release, found to be unmanageable or dangerous and unfit to be at large, the person who applied for his release may take the lunatic to the asylum, and such lunatic shall thereupon be readmitted and detained in the asylum.

(5) If a lunatic released under sub-section (1) or (2) does not return to the asylum at the expiration of the period for which he was released and if no order for his discharge has been passed under section 31 or section 33 or if he is, at any time during the period of his release, found to be unmanageable or dangerous or unfit to be at large and the person who applied for his release states by a written application to the person in charge of the asylum that he is unable to bring him to the asylum such lunatic shall be deemed to have escaped from the asylum and may at any time within one month after the expiration of the said period be re-taken to and detained in the asylum in the manner provided in section 36 :

Provided that such a person shall be deemed to be discharged if on or before the expiry of the period for which he was released, the Board of Visitors is satisfied either (a) as a result of investigations conducted by the person in charge of the asylum concerned or (b) on receipt of a certificate signed by a medical practitioner that the person may with safety be discharged."

APPENDIX 8.

L. C. BILL No. II OF 1938.

A Bill to provide for grant of annual leave with pay to certain classes of workmen by their employers.

(As introduced on the 17th January 1938 and published in the "Bombay Government Gazette" of the 31st January 1938.)

WHEREAS it is expedient to provide for the grant of leave, periodically, with pay, by employers to their workmen ; It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Bombay Annual Leave Act, 1938 .

(2) It extends to the whole of the Province of Bombay.

(3) It shall come into force on such date as Government may, by notification in the *Official Gazette*, appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) "Annual Leave" means leave with pay as prescribed in this Act, other than leave on half pay or without pay due to sickness, convalescence, accident or any other cause.

[Appendix 8—*contd.*]

(2) "Continuous Employment" means an employment which is not interrupted by absence of the workman other than absence due to illness, accident, leave with permission of the employer or absence for a total period not exceeding twenty days in an employment year.

Explanation.—The termination of a contract of employment shall not be deemed to be an interruption, if the contract is renewed within three months of its termination.

(3) "Employer" includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of the deceased employer.

(4) "Employment Year" means a period of one year commencing on the day on which a workman last entered the employment or on an anniversary of that day.

(5) "Managing Agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer.

(6) "Pay" includes any privilege or benefit which is capable of being estimated in money, other than a travelling allowance, or the value of any travelling concession.

(7) "Workman" means a workman as defined in clause (n) of section 2 (1) of the Workmen's Compensation Act, 1923. But it shall not include (a) a workman in regard to whose conditions of service the Provincial Legislature has not power to make laws; or (b) a member of the Police Force.

(8) "Year" means a calendar year according to the Gregorian Calendar.

WORKMEN'S LEAVE.

3. *Period of leave.*—Every employer shall allow to each workman annual leave with pay for a period of not less than thirty days in every complete employment year of such workman during which he has been in continuous employment with him.

4. *Grant of leave.*—(1) Annual leave shall be granted in a single period or in instalments of not less than five days each, at the time and in the manner best suited to the interest of the establishment or undertaking to which the workman belongs.

(2) Members of a family, who are employed in the same establishment or undertaking, shall be allowed to take annual leave during the same period, if they so desire.

5. *Taking of leave compulsory.*—The taking of annual leave shall be compulsory and it shall not be lawful for a workman to renounce or otherwise commute it in any way.

[Appendix 8—*contd.*]

6. *Accumulation of leave.*—Annual leave shall be granted either in the current employment year or after the completion of each year's service. In the latter case, it shall be granted not later than the twenty-third month after the beginning of the year in which the right to annual leave arose :

Provided that it shall be lawful for the employer and the workman to agree, in writing, to have the annual leave accumulated and taken at one time, up to a maximum of not more than three months.

7. *Treatment of holidays.*—Annual leave shall include intervening holiday recognised by the employer ; provided that where such holiday precedes or succeeds the duration of leave, the same shall not be included in leave and shall be allowed to be prefixed or affixed thereto or both.

WORKMEN'S WAGES DURING LEAVE.

8. *Remuneration during leave.*—(1) Every employer shall pay to his workman who has been on annual leave, for the leave period, the same pay as he was receiving at the beginning of the annual leave.

(2) If payment is made for the work at the piece-rates or by the jobs, the pay for the leave period shall be calculated on the basis of the average remuneration earned by the workman during the three months immediately preceding the leave.

WORKMEN'S LIABILITY.

9. *Remunerative work during leave not permitted.*—(1) It shall not be lawful for a workman during the period of the annual leave to do any work for pay or remuneration in another undertaking or establishment.

(2) A workman who does any work in contravention of sub-section (1) shall forfeit the right to receive his pay for that leave period.

10. *Forfeiture of right to leave.*—A workman shall forfeit his right to annual leave of that year if he himself terminates the contract of employment or if it is terminated for reasons which entitle an employer to terminate the contract of employment without previous notice.

11. *Pay for leave period when employment terminates before end of employment year.*—An employer, who terminates the contract of employment of his workman for reasons other than those not requiring previous notice, shall pay to such workman, in addition to other dues, an amount which is equal to the period of the proportionate leave due.

EMPLOYER'S LIABILITY.

12. *Denial of leave punishable.*—(1) An employer, who being responsible for the grant of annual leave to a workman to which he is entitled under the provisions of this Act, neglects, refuses, or otherwise withholds the annual leave that is due or any part thereof, shall be

[Appendix 8—*contd.*]

punishable with fine which may extend to four times the amount of pay of the workman for the period of the leave so neglected, refused or withheld.

(2) Out of the fine recovered, an amount equal to the pay of the workman for the period of the leave so neglected, refused or denied, shall be paid to such workman.

13. Notice of leave.—(1) An employer shall give to every workman to whom he is required to allow annual leave, notice, in writing, of the day on which such annual leave will begin and shall give such notice not less than one month before such day.

(2) An employer who fails or neglects to give the notice mentioned in sub-section (1), shall be punishable with fine not exceeding the remuneration of the workman for the period of leave due to him.

SAFEGUARDS AGAINST ADVERSE EFFECTS.

14. Contract to lessen right to leave void.—Any contract or agreement, whether made before or after the commencement of this Act, whereby a workman relinquishes or reduces any right of leave to which he is entitled under this Act, shall be null and void in so far as it purports to remove or reduce the right of the workman to obtain leave under this Act.

15. Act not to curtail any existing rights.—A workman, who has hitherto been granted annual leave with pay longer than that specified in this Act, shall continue to take such leave and the employer shall not be entitled to enforce the conditions herein laid down in such cases.

MISCELLANEOUS.

16. Transfer of ownership not to affect the workman's right to leave.—Where the ownership of an establishment or undertaking is transferred by act of parties or operation of law, every workman, who is employed in such undertaking or establishment immediately before such transfer, shall be entitled to reckon for the purposes of this Act, the period of his continuous employment in such undertaking.

17. Reference to Commissioners.—If any question arises in any proceedings under this Act, as to the liability of any employer to grant annual leave to any workman (including any question as to whether the person employed is or is not a workman) or as to the duration or periodicity of such leave and the remuneration during leave period, or as to the neglect, refusal or withholding of leave by the employer, the question shall be settled by a Commissioner.

18. Appointment of Commissioners.—(1) Government may, by notification in the *Official Gazette*, appoint any person to be a Commissioner

[Appendix 8—contd.]

for the purposes of this Act, for such local area as may be specified in the notification.

(2) Where more than one Commissioner has been appointed for any local area, Government may, by general or special order, regulate the distribution of business between them.

19. *Power of Government to make rules.*—(1) Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:—

(a) prescribing the form and procedure in which the employer shall maintain the account of service and of pay earned by his workman ;

(b) prescribing the form and procedure in which the employer shall maintain the account of annual leave earned and enjoyed by the workman ;

(c) prescribing the procedure to be followed by the Commissioners in the disposal of cases under this Act, and by the parties in such cases ;

(d) regulating the transfer of matters and cases from one Commissioner to another ;

(e) regulating the scale of costs which may be allowed in proceedings under this Act ;

(f) prescribing and determining the amount of fees payable in respect of any proceedings before a Commissioner under this Act ;

(g) prescribing the form and procedure for maintenance by Commissioners of registers and records of, proceedings before them.

20. *Publication of Rules.*—(1) The power to make rules conferred by section 19 shall be subject to the condition of the rules being made after previous publication.

(2) Rules so made shall be published in the *Official Gazette* and shall have effect from such date as may be specified by Government :

Provided, however, that a period of at least three months shall be allowed to run from the date on which the rules were published to the date on which they come into effect.

(3) The rules made shall be laid on the table of the Provincial Legislative Council and Assembly for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution of the said Council and Assembly. If any rule is so modified, Government shall republish the rule accordingly or rescind the rule.

[Appendix 8—*concid.*]

STATEMENT OF OBJECTS AND REASONS.

Periodical rest is as essential to human body as food. Since the development of industry in modern times, there has been a growing realisation of the necessity of giving to workmen an opportunity of relaxation from work and for recuperation of their health. This is secured by the grant of annual periodical leave. In almost every civilised country in the world, employers as well as Governments have realised the importance of annual leave with pay. In some countries this is secured by legislation ; in others, it is done merely by agreements, administrative rules, regulations or bye-laws.

2. The question of granting annual leave with pay was considered by the International Labour Conference and a Convention was adopted with the requisite majority in the 20th Session in June 1936.

3. Legislation has been passed on this subject in countries like Irish Free State, France, Switzerland, Germany, Denmark, Sweden, Austria, Italy, Chile, Brazil and China. In India, the Government of India and the Provincial Governments as well as Municipalities, Local Bodies, Local Boards and many private firms and employers grant leave according to the rules made by them.

4. The views of the Government of India in this matter are expressed in their letter No. L-1831, dated 14th June 1937, to all Provincial Governments and Administrations, wherein they observe :—

“The Government of India believe that the general principle of holidays with pay is a sound one, and it is securing increasing recognition in labour legislation in other countries. In India, workers in most Government establishments and in some private ones receive paid holidays.....”

5. This Bill is intended to secure a minimum period of annual leave with pay to persons employed in the commercial and industrial undertakings and other organised bodies.

6. The Bill secures thirty days as the minimum period of leave during an employment year and the same can be granted either in a single period or in instalments of not less than five days each (clauses 3 and 4). Taking of the leave has been made compulsory and renouncing it is not lawful (clause 5). The workman is entitled to full pay during leave (clause 8) and is liable to forfeit his right to annual leave in certain cases (clauses 9 and 10). Provision has also been made to safeguard any existing right of leave if it is better than the one secured by this Bill. The other clauses of the Bill are self-explanatory.

S. C. JOSHI.

APPENDIX 9.

L. A. BILL No. XIX OF 1938.

An Act to amend the City of Bombay Police Act, 1902.

(As read for the third time and passed by the Legislative Assembly
on the 30th April 1938.)

Bom. WHEREAS it is expedient to amend the City of Bombay Police Act,
IV of 1902. 1902, for the purposes of dealing with persons who are a danger to the
City of Bombay and for preventing disturbance of public peace or tran-
quillity by reason of conflict between communities or sections thereof
or gangs or factions and for other purposes hereinafter appearing;
It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the City of Bombay Police
(Amendment) Act, 1938.

Bom. 2. *Amendment of section 27 of Bom. IV of 1902.*—In section 27 of the
IV of 1902. City of Bombay Police Act, 1902,—

(1) in sub-section (1)—

(i) for the words beginning with the words “that the movements
or encampment” and ending with the words “pauper immigrants”
the following shall be substituted, namely :—

“ (a) that the movements or acts of any person in the City
of Bombay are causing or calculated to cause alarm, danger or
harm to person or property, or that there are reasonable grounds
for believing that such person is engaged or is about to be engaged
in the commission of an offence involving force or violence, or
an offence punishable under Chapter XII, XVI, or XVII of the
Indian Penal Code, or in the abetment of any such offence, and
when in the opinion of the Commissioner witnesses are not willing
to come forward to give evidencē in public against such person
by reason of apprehension on their part as regards the safety
of their person or property; or

(b) that an outbreak of epidemic disease is likely to result
from the continued residence in the city of an immigrant.”;

(ii) for the words “the members of such gang or body or such
immigrants” the words “such person or immigrant” shall be
substituted;

(iii) for the word “themselves” wherever it occurs, the word
“himself” shall be substituted.

(iv) the words “disperse and” shall be deleted.

(2) After sub-section (2B) the following shall be inserted,
namely :—

“2C. *Proclamation of Emergency.*—(i) The Provincial Government
may, if satisfied that the peace or public tranquillity in the City of
Bombay or in any part thereof is disturbed or is likely to be

[Appendix 9—contd.]

disturbed in consequence of a conflict between different communities or sections thereof or gangs or factions, declare, by a proclamation (hereinafter referred to as 'the proclamation of emergency') in the *Official Gazette* that an emergency exists.

(ii) A proclamation of emergency—

(a) may at any time be revoked by a subsequent proclamation and

(b) shall cease to operate at the expiration of one month, unless before the expiration of that period it has been renewed.

(iii) After the Provincial Government has issued under clause (i) a proclamation of emergency, the Commissioner of Police, whenever it appears to him that the presence, movements or acts of any person in the City of Bombay is or are causing or calculated to cause danger or alarm, or that a reasonable suspicion exists that designs, calculated to disturb peace or public tranquillity are entertained by such person, may by beat of drum or otherwise, as he thinks fit, direct such person so to conduct himself as he shall deem necessary in order to prevent the disturbance of the peace or remove himself to such place or places, by such route or routes, and within such time, as the Commissioner of Police shall prescribe.

(iv) Any person aggrieved by an order made by the Commissioner of Police under clause (iii) may appeal to the Provincial Government within ten days from the date of such order.

(v) Subject to the appeal under clause (iv), an order made by the Commissioner of Police under clause (iii) shall be final.

(vi) Nothing hereinbefore contained in this section shall require any police officer to disclose to the person against whom an order is made under clause (iii) or to the Court the sources of his information or any fact the communication of which, might, in the opinion of the Commissioner of Police, lead to the disclosure of the identity or name of any informant.

(vii) Any order passed by the Commissioner of Police under clause (iii) or by the Provincial Government under clause (iv) shall not have any effect after the proclamation of emergency has ceased to operate."

(3) After sub-clause (2), the following sub-clause shall be added, namely :—

(3) In sub-section (3) for the words, brackets, figure and letter "or (2.1)", the following shall be substituted, namely :—

"(2A) or (2C)."

[Appendix 9—concl.]

(4) After sub-section (3), the following new sub-sections shall be inserted, namely:—

“(4) Before an order under sub-section (1), (2) or (2A) is passed against any person, the Commissioner of Police or any officer authorised by him not below the rank of a Superintendent shall inform such person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of explaining those allegations. The Commissioner of Police or such officer may also examine witnesses, if any, which such person may produce, and any written statement put in by such person shall be filed with the record. Such person shall be entitled to appear before the Commissioner of Police or the said officer by an advocate or attorney for the purpose of explaining the allegations against him and for the purpose of examination of witnesses produced by him.

(5) The Commissioner of Police or the officer authorised under sub-section (4) may, for the purpose of securing the attendance of any person against whom an order is proposed to be made under sub-section (1), (2) or (2A), exercise all or any of the powers of a Court under sections 75 to 77 of the Code of Criminal Procedure, 1898.

(6) Any person aggrieved by an order made by the Commissioner of Police under sub-section (1), (2) or (2A) may appeal to the Provincial Government within thirty days from the date of such order.

(7) An order passed by the Commissioner of Police under sub-section (1), (2) or (2A) or by the Provincial Government under sub-section (6) shall not be called in question in any Court except on the ground that the Commissioner of Police or the officer authorised by him under sub-section (3) had not followed the procedure laid down in the said sub-section or that there was no material before the Commissioner of Police upon which he could have based his order or on the ground that the Commissioner of Police was not of opinion that witnesses were unwilling to come forward to give evidence in the public against the person in respect of whom an order was made under sub-section (1).

(8) Nothing hereinbefore contained in this section shall require any Police officer to disclose to the person against whom an order is made under sub-section (1), (2) or (2A) or to the Court the sources of his information or any fact the communication of which might, in the opinion of the Commissioner of Police, lead to the disclosure of the identity of any person or property.”

APPENDIX 10.

L. A. BILL No. XVIII OF 1938.

An Act to amend the Bombay Race-courses Licensing Act, 1912.

(As read for the third time and passed by the Legislative Assembly on the 2nd May 1938.)

Bom. III of 1912. WHEREAS it is expedient to amend the Bombay Race-courses Licensing Act, 1912, for the purposes hereinafter specified; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Race-courses Licensing (Amendment) Act, 1938.

2. *Amendment of preamble of Bom. III of 1912.*—In the preamble of the Bombay Race-courses Licensing Act, 1912, hereinafter called “the said Act”, for the words “regulation of horse racing” the words “regulation, control and management of horse racing and all matters directly or indirectly connected therewith” shall be substituted.

3. *Amendment of section 4 of Bom. III of 1912.*—In sub-section (2) of section 4 of the said Act, after the words “may think fit” the following shall be inserted, namely:—

“Such conditions may provide for—

- (a) the payment of a licence fee;
- (b) the amount of stakes which may be allotted for different kinds of horses;
- (c) the measures to be taken for the training of persons to become jockeys; and
- (d) such other matters, whether directly or indirectly connected with horse racing, for which, in the opinion of the Provincial Government, it is necessary or expedient to make provision in the licence.”

APPENDIX 11.

L. A. BILL No. XV OF 1938.

An Act to amend the Bombay Primary Education Act, 1923.

(As read for the third time and passed by the Legislative Assembly on the 2nd May 1938.)

Bom. IV of 1923. WHEREAS it is expedient to amend the Bombay Primary Education Act, 1923, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—(1) This Act may be called the Bombay Primary Education (Amendment) Act, 1938.

[Appendix 11—*contd.*]

(2) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint.

2. *Amendment of preamble to Bom. IV of 1923.*—In the Bombay ^{Bom.} Primary Education Act, 1923, hereinafter called the said Act for the ^{IV of} 1923, preamble the following shall be substituted:—

“Whereas it is the duty of Government to secure the development and expansion of primary education: and whereas it is the declared policy of the Government that universal, free and compulsory primary education should be reached by a definite programme of progressive expansion and whereas it is expedient to make better provision for the development, expansion, management and control of primary education in the Province of Bombay; It is hereby enacted as follows:—”

3. *Amendment of section 2 of Bom. IV of 1923.*—For section 2 of the said Act the following shall be substituted, namely:—

“2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) ‘Administrative Officer’ means the officer appointed under section 9;

(2) ‘Approved school’ means a school or part of a school which is for the time being approved for the purposes of this Act by the school board or by the Provincial Government on appeal from a decision of the school board refusing approval;

(3) ‘Area of compulsion’ means the area in which elementary or primary education as the case may be, is compulsory;

(4) ‘To attend an approved school’ means to be present for instruction at such school on such days and at such time and for such periods on each day as may be required by the school board with the approval of the Provincial Government;

(5) ‘Provincial Board of Primary Education’ means the Board constituted under section 2A;

(6) ‘Child’ means a child whose age at the beginning of the school year is not less than six and whose age is, with reference to ‘Elementary education’ not more than eleven and with reference to ‘Primary education’ not more than fourteen years.

(7) ‘Director’ means the Director of Public Instruction for the Province of Bombay;

(8) ‘Elementary education’ means the education from time to time imparted in infant classes and vernacular standards I to IV inclusive as prescribed or sanctioned under section 17;

(9) ‘Local authority’ means (1) a district local board, or (2) a municipality which is authorised by the Provincial Government to manage its own schools;

[Appendix 11—*contd.*]

(10) 'Parent' includes a guardian or any person who has the custody of a child ;

(11) 'Prescribed' means prescribed by rules made by the Provincial Government for the purposes of this Act ;

(12) 'Primary education' means the education from time to time imparted in infant classes and vernacular standards I to VII inclusive as prescribed or sanctioned under section 17 ;

(13) 'Primary Education Fund' means the fund maintained under section 8A ; and

(14) 'School Board' means a board constituted under section 3."

4. *Insertion of a new section 2A in Bom. IV of 1923.*—After section 2 of the said Act the following new section shall be inserted, namely :—

"2A. *Provincial Board of Primary Education.*—(1) There shall be a Provincial Board of Primary Education, consisting of twelve members, of whom six shall be elected by the school boards in the manner prescribed. The remaining six, out of whom not more than three shall be Government officers, shall be appointed by the Provincial Government. The members of the said Board shall hold office for a period of three years.

(2) The elected members of the said Board shall be persons having any of the following qualifications :—

(a) a graduate of seven years' standing of any recognised University,

(b) a professor who has served for a period of five years in a recognised college in the Province of Bombay,

(c) a head master of ten years' standing of any recognised secondary school in the Province of Bombay.

Explanation.—For the purpose of this sub-section, the expression 'recognised' shall mean recognised by the Provincial Government in this behalf.

(3) The said Board shall elect its president from amongst its own members and his term of office shall be co-extensive with that of the Board. Out of the members appointed by the Provincial Government one member selected by the Provincial Government and belonging to the Educational Department shall act as Secretary to the Board.

(4) The powers and duties of the said Board shall be as follows, namely :—

(a) to examine and recommend schemes for the organization, co-ordination and expansion of primary education and for the correlation of primary education with the system of education as a whole in the Province ;

[Appendix 11—*contd.*]

(b) to make recommendations and to advise the Provincial Government with regard to matters specified in sub-section (3) of section 27 ;

(c) to advise the Provincial Government generally on all matters connected with primary education ;

(d) to exercise such other powers as may be conferred on it and to perform such other duties as may be prescribed by rules or by any other law for the time being in force."

5. *Amendment of section 3 of Bom. IV of 1923.*—For section 3 of the said Act, the following shall be substituted, namely :—

"3. *Constitution of School Boards.*—(1) For every local authority there shall be a school board.

(2) The school board shall be constituted as prescribed and shall consist of members not less than twelve and not more than sixteen elected by the local authority. Such members shall not necessarily be members of the local authority :

Provided that if any primary schools have been transferred by municipalities which are not local authorities to the local authority concerned, not more than two of such members shall be elected by the said municipalities in the manner prescribed.

(3) Out of the members elected by the local authority—

(a) two at least shall be members experienced in education ;

(b) one at least shall be a woman ; and

(c) such number not exceeding three as may be prescribed shall be representatives of minorities and backward communities.

(4) The remaining members shall be persons who shall possess the requisite educational qualification.

Explanation.—For the purposes of this section—

(a) minorities and backward communities shall mean such classes and communities as may be prescribed ;

(b) a person shall be deemed to possess the requisite educational qualification, if such person—

(i) has passed the vernacular school final examination held by the Provincial Government ;

(ii) has passed the anglo-vernacular third standard ; or

(iii) possesses any other equivalent or higher educational qualification which the Provincial Government may prescribe in this behalf.

(5) Except as otherwise provided in this Act, the term of office of the members of a school board shall cease on the expiry of the term of the local authority for which it was constituted :

Provided that the term of office of such members shall not be deemed to expire by reason only of the fact that the local authority is dissolved or superseded ;

[Appendix II—*contd.*]

Provided further that notwithstanding the expiry of the term of office of such members, the said members shall continue in office, until the members of a new school board are elected or appointed, as the case may be.

(6) If the term of office of the members of a school board expires during the period of supersession of a local authority for which it was constituted, a new school board shall from time to time be constituted as provided in sub-section (2), until the local authority is re-established, provided that the members of such school board shall, instead of being elected, be appointed by the Provincial Government. The term of office of the members of a school board so appointed shall be for such period not exceeding three years as the Provincial Government may decide :

Provided that if during such period the local authority is re-established, the term of office of the members of the school board shall expire on the date on which a new school board is elected by the local authority concerned.

(7) Casual vacancies during the term of a school board shall be filled for the remaining period by election or appointment, as the case may be."

6. *Insertion of new sections 3A to 3C in Bom. IV of 1923.*—After section 3 of the said Act, the following shall be inserted, namely:—

"3A. *Disqualifications of members.*—No person shall be elected or appointed a member of a school board who—

(a) is less than 25 years of age, or

(b) is a judge of a civil court, or a magistrate or

(c) (i) has been sentenced by a criminal court to fine, imprisonment or whipping for an offence involving moral turpitude and punishable with imprisonment for a term exceeding six months or to transportation, such sentence not having been subsequently reversed or quashed, or

(ii) is a person against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1898, in proceedings instituted under section 110 of that Code, such order not having been subsequently reversed or quashed, if and so long as such order is in force, or,

(iii) has been removed from office under this Act and five years have not elapsed from the date of such removal,

unless he has, by an order of the Provincial Government notified in the *Official Gazette* been relieved from the disqualification arising on account of such sentence, order or removal from office, or

(d) is a stipendiary officer or servant of a school board or of a local authority or of a municipality which is not a local authority, or

[Appendix 11—*contd.*]

(e) is an uncertified bankrupt or an undischarged insolvent, or

(f) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the school board or of the local authority for which it has been constituted or in any contract or employment with, under, or by, and on behalf of the school board or such local authority, or

(g) has not resided for a period of not less than six months next preceding the date fixed for recording of votes for elections to the school board

(i) within the district, if the local authority for which the school board has been constituted is a District Local Board, or

(ii) within the municipal district or municipal borough, as the case may be, or within seven miles of the limits thereof, if such local authority is a municipality, or

(h) has been adjudged by a competent court to be of unsound mind.

Explanation.—A person shall not be deemed to have incurred disqualification under clause (f) by reason of his—

(a) having any share or interest in any lease, sale or purchase of any immoveable property or in any agreement for the same if before taking his seat as a member of the school board, he has obtained the sanction of the Provincial Government to have such share or interest, or

(b) having a share or interest in any joint stock company or in any society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925, which shall contract with or be employed by or on behalf of the school board or of the local authority for which it has been constituted, or

(c) having a share or interest in any newspaper in which any advertisement relating to the affairs of the school board or the local authority for which it has been constituted may be inserted, or

(d) holding a debenture or being otherwise interested in any loan raised by or on behalf of the school board or the local authority for which it has been constituted, or

(e) being professionally engaged on behalf of the school board or the local authority for which it has been constituted, as a legal practitioner,

(f) having a share or interest in the occasional sale to the school board or the local authority for which it has been constituted of any article in which he regularly trades, or in the purchase from the school board or such local authority of any article, to a value

[Appendix 11—*contd.*]

in either case not exceeding in any official year five hundred rupees or such higher amount not exceeding two thousand rupees as the school board or such local authority with the sanction of the Provincial Government may fix in this behalf, or

(g) having a share or interest in the occasional letting out on hire to the school board or the local authority for which it has been constituted, or in the hiring from the school board or such local authority of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the school board or such local authority with the sanction of the Provincial Government may fix in this behalf, or

(h) being a police patel, who is an *ex-officio* keeper of village cattle pounds under the control of the local authority for which the school board has been constituted.

3B. *Determination of validity of elections; enquiry by Judge; procedure.*—(1) If the validity of the election of a member of a school board is brought in question by an unsuccessful candidate or by any person qualified to vote at the election such person may, at any time within fifteen days after the date of the declaration of the result of the election apply to the District Judge of the district within which the election has been or should have been held for the determination of such question.

(2) Enquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge and such Judge may, after such enquiry as he deems necessary, pass an order confirming or amending the declared result of the election or setting the election aside. For the purposes of the said enquiry the said Judge may exercise any of the powers of a civil court, and his decision shall be conclusive. If he sets aside an election, a date shall forthwith be fixed, and the necessary steps taken, for holding a fresh election.

(3) All applications received under sub-section (1)—

(a) in which the validity of the election of members is in question shall as far as possible be heard by the same Judge; and

(b) in which the validity of the election of the same member is in question shall be heard together.

(4) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not allow (a) any application to be compromised or withdrawn or (b) any pleadings in the proceedings to be altered or amended unless he is satisfied that such application, alteration or amendment is *bona fide* and not collusive.

(5) (a) If on holding such enquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (6), he shall declare the candidate disqualified both for the purpose of that election and of

[Appendix 11—*contd.*]

such fresh election as may be held under sub-section (2), and shall set aside the election of such candidate if he has been elected.

(b) If, in any case to which clause (a) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

(6) A person shall be deemed to have committed a corrupt practice—

(a) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit or holds out any threat of injury to any person ; or

(b) who gives, procures or abets the giving of a vote in the name of a voter who is not the person giving such vote ;

and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation.—The expression ' a promise of individual profit '

(i) does not include a promise to vote for or against any particular measure which may come before a school board for consideration, but

(ii) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

(7) If the validity of the election is brought in question only on the ground of an irregularity or informality which has not materially affected the result of the election or which has not been corruptly caused, the Judge shall not set aside the election.

(8) If the Judge sets aside an election under clause (a) of sub-section (5), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of sub-section (6) to be disqualified from being a member of any school board for a term of years not exceeding five and the decision of the Judge shall be conclusive :

Provided that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made :

[Appendix 11—contd.]

Provided further that such person may, by an order of the Provincial Government in that behalf, be at any time relieved from such disqualification.

3C. *Disqualification after becoming a member.*—(1) If any member of a school board, during the term for which he has been elected or appointed—

(a) absents himself during three successive months from the meetings of the school board without the previous permission of the board, or

(b) becomes subject to any of the disqualifications mentioned in section 3A,

he shall be disabled from continuing to be a member of such board, and his seat shall be deemed to be vacant :

Provided that he shall not be deemed to have incurred any disqualification under clause (f) of sub-section (1) of section 3A by reason of his having any share or interest in any lease, sale or purchase of any agreement for the same, if he has obtained the previous sanction of the Provincial Government to have such share or interest.

(2) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Provincial Government shall be final for the purpose of deciding such question, dispute or doubt.

3D. *Disabilities on account of interest in the subject matter.*—A member shall not vote or take part in a discussion on any matter before a meeting of a school board in which he is directly or indirectly, by himself or by his partner, any share or interest such as is described in clause (f) of sub-section (1) of section 3A or in which he is professionally interested on behalf of a client, principal or other person. The vote so given shall not be counted.

3E. *Removal of members of School Board for misconduct.*—The Provincial Government may on its own motion or on the recommendation of the school board or the local authority for which it has been constituted, supported by a resolution passed by at least two-thirds of the whole number of members of either body, remove any member elected to the school board, if such member has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct or has become incapable of performing his duties as a member by reason of any physical or mental infirmity :

Provided that no person shall be so removed nor shall any resolution recommending the removal of any member be passed unless the member to whom it relates has been given a reasonable opportunity of showing cause why he should not be so removed or why such recommendation should not be made."

[Appendix 11—*contd.*]

7. *Amendment of section 4 of Bom. IV of 1923.*—In section 4 of the said Act—

(a) in sub-section (1) omit the words “and subject to the general control of the local authority”;

(b) for sub-section (2) the following shall be substituted:—

“(2) The school board shall exercise the powers and perform the duties of the local authority in respect of primary education as may be prescribed in this behalf and if the local authority is a district local board it shall also exercise the like powers and perform the like duties of the municipalities in the district which are not local authorities and the primary schools in the municipal limits of which are not transferred to any other local authority. The school board shall also enforce the provisions of this Act.”;

(c) sub-section (4) shall be re-numbered as sub-section (3); and

(d) sub-section (5) shall be deleted.

8. *Insertion of a new section 4A in Bom. IV of 1923.*—After section 4 of the said Act the following new section shall be inserted, namely:—

“4A. *Election of chairman and vice-chairman.*—(1) Every school board shall elect a chairman and a vice-chairman from amongst the members of the board.

(2) *Removal of chairman and vice-chairman.*—A chairman or a vice-chairman shall be removable from his office as such chairman or vice-chairman by the school board by a resolution passed to that effect, provided that at least two-thirds of the total number of members of the school board vote in favour of such resolution or where the number of such members voting in favour of such resolution is less than two-thirds but more than one-half of the total number of members of the school board sanction is accorded by the Provincial Government for such removal and provided further, that before such resolution is passed the chairman or vice-chairman is given a reasonable opportunity of showing cause why such resolution should not be passed and the notice of such resolution appears on the agenda of the meeting of the board at which such resolution is taken into consideration.

(3) *Absence of chairman or vice-chairman without leave.*—Every chairman or vice-chairman who, for a continuous period exceeding three months, absents himself without leave of the school board from the local limits of the area for which the school board is constituted, shall cease to be chairman or vice-chairman.

(4) No leave shall be granted by the school board under sub-section (3) for a total period exceeding six months during the term of the school board.

(5) Whenever leave is granted to a vice-chairman under sub-section (3), a member shall be elected to be vice-chairman during the period of such leave.”

[Appendix II—*contd.*]

9. *Insertion of section 5A in Bom. IV of 1923.*—After section 5 of the said Act the following new section shall be inserted, namely:—

“5A. *Payment of travelling allowances to members of school board.*—The members of a school board may be paid allowance for expenses incurred by them in travelling for the purpose of the business of the school board at such rates and subject to such conditions as may be prescribed.”

10. *Amendment of section 6 of Bom. IV of 1923.*—In section 6 of the said Act—

(1) for sub-section (1) the following shall be substituted, namely:—

“(1) Every municipality which is not a local authority shall, on a date to be notified by the Provincial Government in this behalf, transfer to the District Local Board of the district in which it is situate, or to any municipality which is a local authority in the same district as the Provincial Government may decide with the consent of that local authority, all primary schools with their lands, buildings, records and equipment which vest in it and shall pay over annually to the said local authority for educational purposes such amount as may from time to time be fixed by the Provincial Government on the basis of the average number of pupils on the rolls of the schools in the municipal limits receiving primary education, and the income accruing from any funds (including trust funds) held, and all moneys received by it for purposes of primary education.”

(2) In sub-section (2) for the words “the district local board of the district” the words “the local authority to which schools had been transferred” shall be substituted.

(3) The following shall be inserted as sub-section (3), namely:—

“(3) (a) The Provincial Government may at any time by an order published in the *Official Gazette* together with reasons thereto, direct that any municipality which is a local authority shall with effect from a date specified in this behalf cease to be a local authority;

(b) On such order being made, the provisions of sub-section (1) shall apply to such municipality from the date specified in such order.”

11. *Insertion of new sections 8A and 8B in Bom. IV of 1923.*—After section 8 of the said Act, the following sections shall be inserted, namely:—

“8A. *Primary Education Fund.*—(1) A fund hereinafter called the Primary Education Fund shall be maintained by each local authority.

[Appendix 11—contd.]

(2) The following shall form part of, or be paid into the Primary Education Fund :—

(a) the balance of the Primary Education Fund constituted under the Bombay Primary Education Rules at the date on which the Bombay Primary Education (Amendment) Act, 1938, comes into force,

(b) the grant payable on account of primary education including, in the case of a local authority which is a district local board, the portion of the revenue which is to be devoted to primary education under section 80 of the Bombay Local Boards Act, 1923,

(c) the grants paid or payable by the Provincial Government on account of primary education,

(d) the contributions of such municipalities in the district as are not local authorities,

(e) fees and fines received from primary schools,

(f) such other sums as may from time to time be received on account of primary education.

Explanation.—For the purposes of clause (b) the grant payable by a local authority which is a municipality shall be the amount of recurring expenditure on primary education in any year less the grant paid by the Provincial Government in that year, and fees and sums of money from other sources of income belonging to the Fund.

8B. *Application of the Primary Education Fund.*—The Primary Education Fund shall stand in the name of the school board and be applied subject to the provisions and for the purposes of this Act.

8C. *Deposit and withdrawal of Primary Education Fund.*—(1) The Primary Education Fund shall be kept in the Government treasury or in the bank to which the Government treasury business has been made over or to such other bank or co-operative society registered or deemed to have been registered under the Bombay Co-operative Societies Act, 1925, as may be approved by the Provincial Government.

(2) It shall be lawful for the school board to invest such portion of the Primary Education Fund as is not likely to be required immediately in Post Office Cash Certificates or in securities of the Central Government or of any Provincial Government.

(3) Every investment in Government securities shall be made through the Reserve Bank of India or any other bank approved by the Provincial Government in this behalf."

12. *Amendment of section 9 of Bom. IV of 1923.*—For section 9 of the said Act, the following shall be substituted, namely :—

"9. *Administrative Officer.*—(1) For every school board there shall be an Administrative Officer. He shall be the chief executive officer of the school board.

(2) The Administrative Officer shall be appointed by and shall be a servant of the Provincial Government. His pay, powers and duties shall be as prescribed."

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[Appendix II—*contd.*]

13. *Insertion of new section 9A in Bom. IV of 1923.*—After section 9 of the said Act, so substituted the following new section shall be inserted, namely :—

“9A. *Inspecting staff and accountants.*—(1) The Provincial Government may appoint such officers as may in its opinion be necessary to inspect approved schools.

(2) The Provincial Government may also appoint such number of accountants as may be necessary.

(3) The officers appointed under sub-sections (1) and (2) shall be the servants of the Provincial Government, and their pay, powers and duties shall be such as may be prescribed.”

14. *Amendment of section 10 of Bom. IV of 1923.*—In sub-section (1) of section 10 of the said Act, the words “and, if the local authority is a district local board, in any area subject to the jurisdiction of a municipality situate in the district which is not a local authority” shall be deleted.

15. *Amendment of sections 10 and 11 of Bom. IV of 1923.*—(1) In sections 10 (1), 10 (2) and 11 (e) of the said Act, after the word “elementary” wherever it occurs the words “or primary” shall be inserted.

(2) In section 10 (3) after the words “compulsory education” the words “elementary or primary as the case may be” shall be inserted.

16. *Amendment of section 14 of Bom. IV of 1923.*—In section 14 of the said Act—

(a) for the words “elementary education” where they occur for the first time, the words “elementary or primary education as the case may be” shall be substituted;

(b) for the words “elementary education” where they occur in the penultimate line, the words “such education” shall be substituted.

17. *Amendment of section 16 of Bom. IV of 1923.*—In sub-section (1) of section 16 of the said Act, the words “and of the local authority” shall be deleted.

18. *Amendment of section 19 of Bom. IV of 1923.*—In clause (b) of section 19 of the said Act, for the words “elementary education” the words “elementary or primary education as the case may be” shall be substituted.

19. *Amendment of section 22 of Bom. IV of 1923.*—In sub-section (2) of section 22 of the said Act the words “School Boards” wherever they occur, before the words “Administrative Officer” shall be deleted.

20. *Amendment of section 26 of Bom. IV of 1923.*—In sub-section (1) of section 26 of the said Act, for the words “elementary education”, the words “elementary or primary education, as the case may be” shall be substituted.

[Appendix 11—*contd.*]

21. *Insertion of new sections 16A, 16B and 16C in Bom. IV of 1923.*—After section 16 of the said Act, the following new sections shall be inserted, namely:—

“16A. *Inspecting Officer of Educational Department to be present at school board meetings.*—(1) An inspecting officer of the Educational Department of the Provincial Government nominated by the Director in this behalf shall have the right of being present at any meeting of the school board and with the consent of the Chairman of taking part in the discussions thereat, but he shall not be entitled to vote upon, or move any resolution at such meeting.

(2) *Powers of supervision.*—The Director or Educational Inspector or any other officer authorised by a general or special order of the Provincial Government may—

(a) (i) enter on and inspect any immovable property occupied for any purpose connected with primary education by any local authority or school board, or any educational institution under its control or management; or

(ii) cause such property or institution to be entered upon and inspected by any other person authorised by him in this behalf;

(b) call for any extract from the proceedings of any local authority or school board or of any committee appointed by either of them relating to any matter connected with primary education; or

(c) call for and inspect any book or document relating to any matter connected with primary education in the possession or under the control of a local authority or school board.

16B. *Power to call for return or require an explanation, etc.*—The Director may—

(a) call for from any local authority or school board any return, statement, account, or report relating to any matter connected with primary education which he may think it fit to require such local authority or school board to furnish; and

(b) require a local authority or school board to take into consideration any objection which appears to him to exist to the doing of anything connected with primary education which is about to be done by such local authority or school board or any information furnished by him which appears to him to necessitate the doing of a certain thing by such local authority or school board and to make a written reply to him within a reasonable time, stating its reasons for not desisting from doing or for not doing such a thing.

16C. *Power of suspending execution of orders, etc. of a school board or local authority.*—(1) If, in the opinion of the Director, the execution of any order or resolution of a school board or the doing of anything which is about to be done or is being done by or on behalf of a school board is in excess of the powers conferred by or contrary to this Act or the rules or regulations made thereunder, or if otherwise unlawful, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.

[Appendix II—*contd.*]

(2) When the Director makes an order under sub-section (1), he shall forthwith forward to the school board affected by it a copy of such order with a statement of the reasons for making it.

(3) The Director shall forthwith submit to the Provincial Government a report of every case occurring under this section, and the Provincial Government may confirm, revise or modify any order made therein and make in respect thereof, any other order which the Director could have made:

Provided that no order of the Director passed under this section shall be confirmed, revised or modified by the Provincial Government without giving the school board reasonable opportunity of showing cause against the said order."

22. *Insertion of new sections 26A, 26B, 26C, 26D and 26E in Bom. IV of 1923.*—After section 26 of the said Act the following new sections shall be inserted, namely:—

"26A. *Power of Provincial Government to provide for performance of duties on default by school board.*—(1) When the Provincial Government is informed that a school board has made default in performing any duty imposed on it by or under this Act or by or under any enactment for the time being in force, the Provincial Government may if it is satisfied after such enquiry as it may think fit that the school board has been guilty of such default, by an order in writing direct the school board to perform the duty within a period fixed for the performance of that duty:

Provided that no such order shall be made unless the school board has been given an opportunity to show cause why such order shall not be made.

(2) If such duty is not performed within the period so fixed the Provincial Government may appoint some person to perform it and may direct that the expenses of performing it, with a reasonable remuneration to the person appointed to perform it, shall be paid, within such time as it may fix, to such person by the school board or by the local authority as the Provincial Government may direct.

(3) If the expense and remuneration are not so paid, the Provincial Government may make an order directing the officer in charge of the treasury or bank or society in which the Primary Education Fund is kept, or the whole or portion thereof is deposited, or lent at interest, to pay such expense and remuneration from such moneys as may be standing to the credit of the school board in such treasury or bank or society or as may, from time to time be received from or on behalf of the school board by way of deposit by such treasury or bank or society; and such officer or bank or society shall be bound to obey such order. Every payment made in pursuance to such order shall be a sufficient discharge to such officer, bank or society from all liability to the school board in respect of any sum or sums

[Appendix 11—contd.]

so paid by him or it out of the moneys so received or standing to the credit of the school board in such treasury, bank or society.

26B. *Inquiry into affairs of school board.*—(1) The Provincial Government may, from time to time, cause inquiry to be made by any of its officers in regard to any local authority or school board on matters connected with primary education concerning them or any matters with respect to which the sanction, approval, consent or order of the Provincial Government is required by or under this Act.

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(2) The officer holding such inquiry shall have the powers of a court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the inquiry.

(3) The Provincial Government may make orders as to the costs of any inquiries made under sub-section (1) and as to the parties by whom and the funds out of which they shall be paid, and such order may, on the application of the Provincial Government or of any person named therein, be executed as if it were a decree of a civil court.

26C. *Power of Provincial Government to dissolve or supersede school board in certain circumstances.*—(1) If in the opinion of the Provincial Government, a school board is not competent to perform or is not properly performing the duties imposed on it by or under this Act or any other law for the time being in force, or exceeds or abuses its powers, or is acting or has acted contrary to the provisions of this Act or the rules or regulations made thereunder, it may, by an order published with the reasons for making it, in the *Official Gazette*, either—

(a) dissolve the school board, or

(b) supersede it for a period to be specified in the order.

(2) When a school board is dissolved or superseded the following consequences shall ensue :—

(a) all members of the school board shall, in the case of supersession as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution, vacate their offices as such members ;

(b) all powers and duties of the school board, shall, during the period of dissolution or supersession, be exercised and performed by such persons as the Provincial Government may from time to time appoint in this behalf ;

(c) the persons appointed under clause (b) may delegate their powers and duties to any individual or committee or sub-committee.

(3) On the issue of an order of dissolution under sub-section (1) election of members shall be held under the provisions of this Act or of the rules made thereunder on or before the date to be specified

[Appendix 11—contd.]

by the Provincial Government and the school board shall be re-established by the election of members under the aforesaid provisions on such date as may be specified by the Provincial Government.

(4) If, after enquiry made, the Provincial Government so directs, the period of supersession with all the consequences aforesaid shall, from time to time, be continued by an order published as aforesaid until such date as may be fixed by the Provincial Government for the re-establishment of the school board.

(5) After the school board is superseded it shall be re-established by the election of members under the provisions of this Act or the rules made thereunder applicable thereto—

(a) if no direction has been made under sub-section (4) on the expiration of the period specified in the order of supersession under sub-section (1) (b); and

(b) if a direction has been made under sub-section (4) on such date as is fixed under that sub-section for the re-establishment of the school board.

26D. *Dissolution of school board and its reconstitution on the alteration of the limits of a district.*—(1) When, during the term of office of the members of a school board of a local authority which is a district local board, the limits of the district are on account of the constitution of a new district under the Bombay Land Revenue Code, 1879, or for any other reason altered, the Provincial Government may, by order published in the *Official Gazette*, dissolve such board from a date specified in the order and direct a school board—

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(i) to be reconstituted for the district of which the school board has been dissolved, or

(ii) to be established for a new district which has been constituted. The members of the school board which has been dissolved shall vacate their offices from the date specified in the order.

(2) The school board reconstituted or established under the provisions of sub-section (1) shall consist of such number of members, elected in such manner as the Provincial Government may, by order in writing, direct. The Chairman and Vice-Chairman of the school board so reconstituted or established shall be elected in the manner provided in this Act and in the rules made thereunder.

(3) The members of a school board reconstituted or established under the provisions of sub-section (2) shall hold office for such period, not exceeding one year, as the Provincial Government shall, by order in writing, specify.

(4) On the expiry of the period of office of the member of a school board under the provisions of sub-section (3), the school board for the district local board local authority shall be constituted in the manner provided in section 3.

[Appendix 11—contd.]

26E. *Limitation of suits.*—(1) No suit, prosecution or other legal proceeding shall be commenced against any school board or local authority or servant of a school board or of a local authority or any person acting under the orders of a school board or local authority for anything done, or purporting to have been done in pursuance of this Act, or any other law for the time being in force which entitles or requires a school board, local authority, member, officer, servant as such, or other person so acting to exercise any powers or perform duties, without giving to such school board, local authority, member, officer, servant, or person one month's previous notice in writing of the intended action and of the cause thereof, or after six months from the date of the act complained of.

(2) In the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender."

23. *Amendment of section 27 of Bom IV of 1923.*—In section 27 of the said Act—

(1) In sub-section (1)—

(a) at the beginning of clause (a)—

(i) the words "the constitution of the school board," shall be inserted;

(ii) after the words "school boards," the words "chairman and vice-chairman of school boards" shall be inserted;

(iii) the words "School Board" shall be deleted;

(b) in clause (b) after the words "for the" the word "administrative" shall be inserted.

(c) after clause (b) the following clauses shall be inserted, namely:—

"(c) the manner of election of the chairman, vice-chairman and members of the school board;

(d) the rates and manner of payment of travelling allowances to members of the school board under section 5A;

(e) the qualifications, pay, conditions of service, powers and duties of Administrative and inspecting officers;

(f) the administration maintenance and use of primary education fund;

(g) the delegation of any power to any subordinate authority."

(d) Clause (c) shall be re-lettered (h).

(2) In clause (d) of sub-section (3) for the words "inspecting and supervising" the words "supervising, clerical and inferior" shall be substituted.

[Appendix 11—concl'd.]

24. *Delegation of power to certain local authorities to appoint Administrative Officers.*—After section 27 of the said Act the following new section shall be inserted, namely :—

“ 27A. (1) Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the *Official Gazette*, delegate to a local authority which is a municipality constituted under the Bombay Municipal Boroughs Act, 1925, and the annual expenditure of which on primary education is not less than Rs. 1,00,000 power to appoint an Administrative Officer. The officer so appointed shall be the servant of the local authority concerned.

(2) The appointment of such Administrative Officer shall be made, after inviting and considering the suggestions, if any, of the school board and with the previous approval of the Provincial Government. No such officer shall, save with the previous sanction of the Provincial Government, be removeable from office, reduced or suspended except by votes of at least two-thirds of the whole number of councillors of the local authority.

(3) The qualifications, pay and conditions of service of such Administrative Officer shall be regulated by regulations made by the local authority with the previous sanction of the Provincial Government.

(4) Such Administrative Officers shall, subject to the general or special orders of the Provincial Government, exercise all the powers and perform all the duties which may be exercised and performed by the Administrative Officers appointed under section 9.”

25. *Transitory provision.*—Notwithstanding any law or terms of any contract, all school board Administrative Officers employed by local authorities to which the power of appointing Administrative Officers is not delegated under section 27A of the said Act and all supervisors who may be in office on the day on which this Act comes into force shall, from such date, be deemed to be appointed as Administrative Officers and officers of the Inspecting Staff under section 9 or section 9A of the said Act, as the case may be, on such terms and conditions as may be determined by the Provincial Government :

Provided that such Administrative Officers and officers of the Inspecting Staff shall hold their respective offices until such date as the Provincial Government may, by general or special order, specify in this behalf.

APPENDIX 12.

L. A. BILL No. XVII OF 1938.

An Act to amend the City of Bombay Municipal Act, 1888.

(As read for the third time and passed by the Legislative Assembly on the 5th May 1938.)

WHEREAS it is expedient to amend the City of Bombay Municipal Act, 1888, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the City of Bombay Municipal (Third Amendment) Act, 1938.

2. *Amendment of section 3 of Bom. III of 1888.*—In section 3 of the City of Bombay Municipal Act, 1888 (hereinafter called “the said Act” in clause (c) for the words “duly elected or appointed” the words “who is duly elected or who is a member *ex-officio*” shall be substituted.

3. *Amendment of section 5 of Bom. III of 1888.*—For sub-section (1) of section 5 of the said Act, the following shall be substituted, namely:—

“5. *Constitution of Corporation.*—(1) The Corporation shall consist of one hundred and seventeen councillors as follows:—

(i) Elected councillors—

(a) one hundred and six councillors elected at ward elections;

(b) four councillors elected as follows:—

One by the Bombay Chamber of Commerce; one by the Indian Merchants' Chamber and Bureau; one by the Bombay Millowners' Association; one by Fellows;

(c) four councillors elected by delegates.

(ii) Three *ex-officio* councillors, namely:—

The Police Commissioner;

The Executive Engineer, Presidency Division, Public Works Department, Bombay;

The Chairman of the Board of Trustees of the Port of Bombay.”

4. *Amendment of section 6 of Bom. III of 1888.*—In sub-section (2) of section 6 of the said Act, for the words “selected or appointed” the word “elected” shall be substituted.

5. *Amendment of section 7 of Bom. III of 1888.*—(1) Section 7 of the said Act shall be renumbered as sub-section (1) of that section and in the sub-section so renumbered:—

(a) for the words “All members of the Corporation constituted as aforesaid”, the words “All elected councillors” shall be substituted; and

(b) with effect from the first day of April 1942, for the words “three years”, the words “four years” shall be substituted.

[Appendix 12—*contd.*]

(2) After sub-section (1) of section 7 of the said Act, the following sub-section shall be added, namely :—

“(2) The term of office of an *ex-officio* councillor shall continue so long as he holds the office by virtue of which he is such councillor.”

6. *Amendment of section 9 of Bom. III of 1888.*—In section 9 of the said Act, the words “or appointed” wherever they occur and the words “or appointment, as the case may be,” shall be deleted.

7. *Amendment of section 10 of Bom. III of 1888.*—In section 10 of the said Act, the words “or appointed” shall be deleted.

8. *Amendment of section 11 of Bom. III of 1888.*—(1) For sub-section (2) of section 11 of the said Act, the following shall be substituted, namely :—

“(2) A person shall not be entitled to be enrolled in the municipal election roll as a voter of any ward, unless such person—

(a) has, on the 30th day of September in the year preceding that for which the roll is being prepared, attained the age of 21 years, and

(b) has the requisite residence, business premises or taxation qualification.

(3) A person shall be deemed to have the requisite residence qualification or the requisite business premises qualification if he has ordinarily used a dwelling in the City as a sleeping place or occupied business premises in the City, as the case may be, for the qualifying period.

(4) A person shall be deemed to have the requisite taxation qualification if he owns immoveable property in the City which is assessed, on the first day of April next preceding the date of the publication of the roll, to any of the property taxes referred to in section 140.

(5) A person who is an inmate or a patient in any prison, lunatic asylum, hospital, or any other similar institution, shall not, by reason thereof, be deemed to have used such institution as a dwelling for the purposes of sub-section (3).

(6) For the purpose of this section—

(a) ‘Business premises’ shall mean premises occupied for the purpose of the business, profession or trade of the person to be enrolled and the annual rateable value of which, determined in accordance with the provisions of this Act, is not less than Rs. 60.

(b) ‘The qualifying period’ shall mean a period of one year before the first day of April next preceding the date of the publication of the roll.”

(2) The provisions of sub-section (1) shall come into force for the purposes of the general elections to be held after the first day of January 1942 and for all subsequent elections.

[Appendix 12—contd.]

9. *Amendment of section 14 of Bom. III of 1888.*—(1) Sub-section (2) of section 14 of the said Act shall be deleted.

(2) The provisions of sub-section (1) shall come into force for the purposes of the general elections to be held after the first day of January 1942 and for all subsequent elections.

10. *Amendment of section 16 of Bom. III of 1888.*—In section 16 of the said Act in sub-section (1) the words “or appointed” shall be deleted.

11. *Amendment of section 19 of Bom. III of 1888.*—(1) In section 19 of the said Act—

(a) In sub-section (1), for the words beginning with the words “whether such persons” and ending with the words “or land”, the following shall be substituted, namely:—

“Provided that where such person is—

(i) a company, the name of the Secretary or manager of the company,

(ii) a firm, the names of all the partners of such firm, registered under the Indian Partnership Act, 1932.

(iii) any other association or body of individuals, the name of the individual member of such association or body of individuals authorised by such association or body of individuals, or

(iv) an undivided Hindu family, the names of all adult coparceners of such family, shall be entered in such lists against the names of such company, firm, association, body of individuals or family, as the case may be.”

(b) For sub-section (5), the following shall be inserted, namely:—

“(5) The Commissioner shall, before preparing the list, by notice in writing, call upon every owner of a building to furnish him with a list of all tenants who resided in or occupied such building during the qualifying period referred to in section 11.

(5A) The Commissioner may also call upon by notice in writing any occupier of any building or other person to furnish such information as may be prescribed by rules made under this section.

(5B) Every person to whom a notice has been issued under sub-section (5) or (5A) shall furnish full and true information within fifteen days from the date of receipt of notice.

(5C) The Commissioner shall then verify and scrutinise the particulars furnished under sub-sections (5) and (5A) by a house to house enquiry and by taking such other steps as may be prescribed by rules made under this section.”

(c) In sub-section (15), after the word “dead” the words “or not qualified to be enrolled” shall be inserted.

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[Appendix 12—*contd.*]

(d) In sub-section (19) the words, figure and brackets beginning with the words "But this shall" and ending with the words "so retained" shall be deleted.

(c) Sub-section (21) shall be deleted.

(f) After sub-section (22) the following shall be inserted, namely:—

"(23) Subject to the provisions of the foregoing sub-sections, the Corporation, with the sanction of the Provincial Government may make rules for the preparation and revision of the lists of persons qualified to vote."

(2) The provisions of this section shall apply to the first general election to be held after the first day of January 1942 and for all subsequent elections.

12. *Amendment of section 22 of Bom. III of 1888.*—With effect from 1st April 1942, in section 22 of the said Act, for the word "triennially", the words "every four years" shall be substituted.

13. *Amendment of section 28 of Bom. III of 1888.*—(1) In section 28 of the said Act, for clauses (d) and (e) the following shall be substituted, namely:—

"(d) when the name in a ward roll is that of a company, firm, association, body of individuals or an undivided Hindu family, all the persons whose names are entered against such company, firm, association, body of individuals or undivided Hindu family in the ward roll shall be entitled to vote."

(2) The provisions of sub-section (1) shall come into force for the purposes of the general elections to be held after the first day of January 1942 and for all subsequent elections.

14. *Deletion of section 35 of Bom. III of 1888.*—Section 35 of the said Act shall be deleted.

15. *Amendment of section 39 of Bom. III of 1888.*—In section 39 of the said Act,—

(1) in clause (a) of sub-section (1) the words beginning with "twelve shall" and ending with the words "and the remaining" shall be deleted and for the words "not being councillors resident in the City of Bombay" the words "whose names are entered in the election roll, but who are not councillors" shall be substituted.

(2) clause (b) of sub-section (1) and the explanation thereto shall be deleted.

[Appendix 12—*contd.*]

(3) in sub-section (f), for sub-clauses (a) and (b) the following shall be substituted, namely:—

“(a) One-half of the members of the Schools Committee shall retire at noon on the first day of April every year.

(b) The members who shall retire one year after the Schools Committee is constituted under sub-section (1) (a) shall be selected by lot at such time previous to the first day of March immediately preceding and in such manner as the Chairman may determine.

(bb) During the succeeding years the members who shall retire under clause (a) shall be the members who were longest in office :

Provided that in the case of a member who has been re-elected the term of his office for the purposes of this clause shall be computed from the date of his re-election.”

(4) in sub-sections (1-D) and (f) (c) the words “relating to the representation of communities” shall be deleted.

16. *Amendment of section 42 of Bom. III of 1888.*—In section 42 of the said Act, the words “twelve appointed by the corporation and four by Government” shall be deleted.

17. *Amendment of section 43 of Bom. III of 1888.*—In section 43 of the said Act—

(1) in sub-section (1) for the word “twelve” the word “sixteen” shall be substituted ; and

(2) sub-section (2) shall be deleted.

18. *Substitution of section 45 of Bom. III of 1888.*—For section 45 of the said Act, the following shall be substituted, namely:—

“45. *Members of Standing Committee to retire by rotation.*—(a) One half of the members of the Standing Committee shall retire at noon on the first day of April every year.

(b) The members who shall retire one year after the Standing Committee is constituted under section 43 shall be selected by lot at such time previous to the first day of March immediately preceding and in such manner as the Chairman may determine.

(c) During the succeeding years, the members who shall retire under this section shall be the members who were longest in office :

Provided that in the case of a member who has been re-elected the term of his office for the purposes of this clause shall be computed from the date of his re-election.”

[Appendix 12—contd.]

19. *Amendment of section 46 of Bom. III of 1888.*—In sub-section (1) of section 46 of the said Act, the words beginning with the words “and, within one week” and ending with the words “as aforesaid” shall be deleted.

20. *Amendment of section 47 of Bom. III of 1888.*—In section 47 of the said Act, the words “by the corporation or by Government, as the case may be,” shall be deleted.

21. *Amendment of section 49B of Bom. III of 1888.*—In section 49B of the said Act, the words “twelve appointed by the corporation and four by Government” shall be deleted.

22. *Substitution of section 49C of Bom. III of 1888.*—For section 49C of the said Act, the following shall be substituted, namely:—

“49C. *Members of Improvements Committee when to be appointed.*—The Corporation shall, at their first meeting in the month of April after each general election appoint sixteen persons out of their own body to be members of the Improvements Committee.”

23. *Substitution of section 49E of Bom. III of 1888.*—For section 49E of the said Act, the following shall be substituted, namely:—

“49E. *Members of Improvements Committee to retire by rotation.*—
(a) One half of the members of the Improvements Committee shall retire at noon on the first day of April every year.

(b) The members who shall retire one year after the Improvements Committee is constituted under section 49C shall be selected by lot at such time previous to the first day of March immediately preceding and in such manner as the Chairman may determine.

(c) During the succeeding years, the members who shall retire under this section shall be the members who were longest in office:

Provided that in the case of a member who has been re-elected the term of his office for the purposes of this clause shall be computed from the date of his re-election.”

24. *Amendment of section 49F of Bom. III of 1888.*—In sub-section (1) of section 49F of the said Act, the words beginning with the words “and, within one week” and ending with the words “as aforesaid” shall be deleted.

25. *Amendment of section 49G of Bom. III of 1888.*—In section 49G of the said Act, the words “by the corporation or by Government, as the case may be,” shall be deleted.

[Appendix 12—*contd.*]

26. *Amendment of section 57 of Bom. III of 1888.*—In section 57 of the said Act—

(1) in sub-section (1) for the words “a monthly salary of three thousand rupees”, the words “such monthly salary not exceeding three thousand rupees and not less than two thousand rupees as the Provincial Government may determine” shall be substituted;

(2) sub-section (3) shall be deleted.

27. *Amendment of section 68 of Bom. III of 1888.*—In sub-section (2) of section 68 of the said Act, after the word “namely” :—the following shall be inserted, namely :—

“Section 19”.

28. *Amendment of section 74 of Bom. III of 1888.*—In section 74 of the said Act, in sub-section (2), for clause (c) the following shall be substituted, namely :—

“(c) receive such monthly salary as the Corporation shall, subject to the following limitations, from time to time determine, that is to say, the monthly salary of the Municipal City Engineer shall not exceed Rs. 2,000 and shall not be less than Rs. 1,200, the monthly salary of the Municipal Executive Health Officer shall not exceed Rs. 1,500 and shall not be less than Rs. 1,200, and the monthly salary of the Municipal Hydraulic Engineer shall not exceed Rs. 1,500 and shall not be less than Rs. 1,200.”

29. *Insertion of new section 80B in Bom. III of 1888.*—After section 80A of the said Act the following shall be inserted, namely :—

“80B. *Manner of making appointments.*—(1) Save in the case of acting appointments made under section 85, no person shall be appointed to any of the posts the power of appointment to which vests in the Corporation unless he possesses the qualifications specified in the rules made in this behalf under sub-section (3).

(2) Before making an appointment to any post referred to in sub-section (1), the vacancy shall be advertised in at least one local newspaper, calling for applications for such post; the applications received shall be scrutinised by the Commissioner, who shall then, out of the persons who may have applied, submit to the Corporation through a committee if so required by the Corporation a list of persons who in his opinion are qualified for the post.

(3) Subject to the provisions of this Act, the Corporation shall, with the previous sanction of the Provincial Government, make rules for the purposes of this section. The Provincial Government may, when sanctioning such rules, make such modifications or additions as it deems fit.”

[Appendix 12—contd.]

30. Amendment of sections 471 and 473 of and insertion of new section 473A in Bom. III of 1888.—(1) In the table in section 471 of the said Act, before the entry relating to section 136, sub-section (2) in column 1, the words, figures and brackets "Section 19, sub-sections (5A) and (5B)", in column 2 "Requisition by Commissioner" and in column 3 "One hundred rupees" shall be inserted.

(2) In the table in section 473 of the said Act, before the entry relating to section 28, clause (j), the figures, brackets and letter "19 (5) and (5A)" in column 1 and the figures and words "176 or 177, as the case may be" in column 2 shall be inserted.

(3) After section 473 of the said Act, the following new section shall be inserted, namely :—

"473A. *Punishment for offences of preparing false election rolls or making false entries in ward lists.*—Any officer or servant of the Corporation who knowingly prepares or makes an entry in the list of persons qualified to be enrolled which is incorrect or false shall, on conviction, be punishable with imprisonment of either description which may extend to six months or with fine which may extend to Rs. 500."

(4) The provisions of sub-sections (1), (2) and (3) shall come into force for the purposes of the general elections to be held after the first day of January 1942 and for all subsequent elections.

31. Substitution of Schedule B to Bom. III of 1888.—For Schedule B to the said Act the Schedule as appended to this Act shall be substituted.

32. Saving in case of present incumbents.—Nothing contained in section 26, 28 or 29 of this Act shall apply to persons appointed to hold posts referred to in the said sections during the period for which they may have been appointed before the commencement of this Act.

33. Savings.—(1) Nothing in this Act shall affect the constitution of the Corporation, the Standing Committee, the Schools Committee, or the Improvements Committee as constituted immediately before the first day of April 1939 and no appointment, notification, notice, tax, order, scheme, licence, provision, rule, bye-law or form, made, issued or imposed in respect of or by the Corporation or Committee so constituted shall be deemed to be invalid by reason only of the fact that the provisions of this Act have come into force.

(2) Notwithstanding anything contained in this Act, any casual vacancy in the office of a councillor, or a member of any of the said Committees occurring before the 1st day of April 1939 shall, subject to the provisions of the said Act, be filled as if this Act had not come into force.

[Appendix 12—contd.]

SCHEDULE B.

(See Section 24.)

Division of the City into Wards.

Con- secu- tive No.	Name of Ward or Division.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
1	Upper Colaba .. Middle and Lower Colaba. Fort Southern.	A line starting from Colaba point extending along the harbour up to its junction with the extension of Ballard Road, thence along the south side of Ballard Road, Sir Pherozesha Mehta Road and Napier Road, thence cutting across Esplanade Road to Mayo Road, thence along the East side of Mayo Road up to its junction with Church Gate Street, thence along the South side of Church Gate Street, Sir Dinshaw Wachha Road to meet Backbay, thence along Backbay Sea-wall West of Blocks 6, 7 and 8 to Colaba point.	6
2	Fort Northern .. Esplanade.	A line starting from Backbay near Sir Dinshaw Wachha Road, extending along the North side of Sir Dinshaw Wachha Road, Church Gate Street up to its junction with Mayo Road, thence along the West side of Mayo Road cutting Esplanade Road to Napier Road, thence along the North side of Napier Road, Sir Pherozesha Mehta Road, and Ballard Road, thence in a straight line to meet the harbour, thence along the Sea, up to the North wharf of Carnac Basin, thence along the aforesaid wharf along the South side of Carnac Road, 1st Marine Street, continuing thence in a straight line to Backbay Sea-wall, thence along the sea to the starting point, viz., junction of Sir Dinshaw Wachha Road and Backbay Sea-wall.	6
3	Mandvi .. Chakla.	A line starting from the junction of Abdul Rehman Street and Carnac Road, extending Eastward along the North side of Carnac Road, thence in a straight line along the North Wharf of Carnac Basin to the Harbour, thence along the Harbour up to the North Wharf of Victoria Docks, thence extending along the Bombay Port Trust Railway siding running	5

[Appendix 12—contd.]

SCHEDULE B—contd.

Con- secu- tive No.	Name of Ward or Division.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
4	Umakhadi Dongri.	<p>South of A and B Sheds of Princess Dock, thence along the South side of Masjid Siding Road and 1st Chinchbunder Road up to its junction with Dongri Street, thence Southward along the East side of Dongri Street up to its junction with Pydhoni Road, thence along the South side of Pydhoni Road to its junction with Sir Ibrahim Rahimtoola Road, thence along the East side of Abdul Rehman Street to the starting point, viz., the junction of Carnac Road and Abdul Rehman Street.</p> <p>A line starting from the junction of Sir Ibrahim Rahimtoola Road and Pydhoni Road extending along the North side of Pydhoni Road then Northward along the West side of Dongri Street up to its junction with 1st Chinchbunder Road, thence along the North side of 1st Chinchbunder Road, Masjid Siding Road, thence along the Bombay Port Railway siding running south of A and B sheds of Princess Dock to Sea, thence along the Harbour Northward up to the South Wharf of Clerk Basin, thence Westward to Wari Bunder Road then along the South side of Wari Bunder Road and East side of Margaon Road and South side of Babula Tank Road, thence along the East side of Sir Ibrahim Rahimtoola Road to its starting point, viz., junction of Sir Ibrahim Rahimtoola Road and Pydhoni Road.</p>	5
4	Khara Talao Kumbharwada.	<p>A line starting from the junction of Sir Ibrahim Rahimtoola Road and Grant Road extending along the South side of Grant Road up to its junction with Trimbak Parsharam Street, thence along the East side of Trimbak Parsharam Street and Ardeshir Dady Street, thence along the North side of Vithalbhai Patel Road to its junction with Cawasji Patel Tank Road, thence along the</p>	5

[Appendix 12—contd.]

SCHEDULE B—contd.

Con- se- cu- tive No.	Name of Ward or Division.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
6	Bhuleshwar Market	<p>North side of Cawasji Patel Tank Road and Erskine Road up to its junction with Babu Khote Street, thence along the East side of Babu Khote Street to its junction with Sir Ibrahim Rahimtoola Road, and thence along the West side of Sir Ibrahim Rahimtoola Road to the starting point, viz., junction of Sir Ibrahim Rahimtoola Road and Grant Road.</p> <p>A line starting from the junction of Erskine Road and Babu Khote Street, extending along the West side of Babu Khote Street and Abdul Rehman Street and thence along the North side of Carnac Road to its junction with Kalbadevi Road, thence along the East side of Kalbadevi Road and North side of Dady Sheth Agyari Street to its junction with Cathedral Street, thence along the North side of Cathedral Street, thence Westward along the North side of Bhuleshwar Road and East side of Vithalbhai Patel Road to its junction with C. P. Tank Road, thence along the South side of C. P. Tank Road and Erskine Road up to the starting point, viz., the junction of Babu Khote Street and Erskine Road.</p>	7
7	Dhobi Talao Fanaawadi.	<p>A line starting from the junction of Thakurdwar Road and Bhuleshwar Road extending along the South side of Thakurdwar Road, thence in a straight line running South of Government Printing Press to meet Backbay Sea-wall, thence Southward along Backbay up to its junction with the Road in continuation of 1st Marine Street, South of Marine Line Station, thence along the North side of the aforesaid Road, 1st Marine Street and Carnac Road to its junction with Kalbadevi Road, thence along the West side of Kalbadevi Road to its junction with Dady Sheth Agyari Street, thence along the South side of Dady Sheth Agyari Street to its junction with Cathedral Street, thence</p>	7

[Appendix 12—contd.]

SCHEDULE B—contd.

Con- secu- tive No.	Name of Ward or Division.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
8	Khetwadi Tardeo.	<p>along the West side of Cathedral Street and Bhuleshwar Road to the starting point, viz., junction of Thakurdwar and Bhuleshwar Roads.</p> <p>.. A line starting from the junction of Bellasis Bridge and B. B. & C. I. Railway lines extending along the South side of Bellasis Bridge, Bellasis Road up to its junction with Suklaji Street, thence along the West side of Suklaji Street and South side of Grant Road up to its junction with Trimbak Parsharam Street, thence along West side of Trimbak Parsharam Street, Ardeshir Dady Street and North side of Vithalbhaji Patel Road, Girgaum Road to its junction with Frere Bridge, thence along the South side of Frere Bridge up to its junction with B. B. & C. I. Railway lines, thence along the East side of B. B. & C. I. Railway lines to the starting point, viz., to its junction with Bellasis Bridge.</p>	7
9	Girgaum Chaupati.	<p>.. A line starting from the junction of Harvey and Girgaum Roads extending along the South side of Girgaum Road up to its junction with Vithalbhaji Patel Road, thence along the South side of Vithalbhaji Patel Road and West side of Thakurdwar Road, thence in a straight line to Sea, thence along the Canady Seaface up to its junction with Harvey Road, thence along East side of Harvey Road to the starting point, viz., to its junction with Girgaum Road.</p>	6
10	Walkeshwar Mahalaxmi.	<p>.. A line starting from the junction of Harvey Road and Sea extending along the West side of Harvey Road, North of Frere Bridge to its junction with B. B. & C. I. Railway lines, thence along the West side of B. B. & C. I. Railway Lines up to its junction with Clerk Road, thence along the South side of Clerk Road to meet the Sea at Hornby Vellard, thence along the Sea up to the Malbar point, thence Northward along the Sea to the starting point, viz., to its junction with Harvey Road.</p>	6

[Appendix 12—contd.]

SCHEDULE B—contd.

Con- secu- tive No.	Name of Ward or Division.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
11	Mazgaon Tarwadi.	A line starting from the junction of Kalachowky and Parel Road extending along the East side of Parel Road, Victoria Gardens Road to its junction with Shephard Road, thence Nesbit Bridge and along North side of Nesbit Road up to its junction with Mazgaon Road, thence along the East side of Mazgaon Road up to its junction with Wari Bunder Road, thence along the North side of Wari Bunder Road, thence Southward along the East side of Frere Road up to a distance of about 500 feet, thence Eastward to the North Wharf of Frere Basin, thence Northward along the Harbour up to the South Wharf of Brick Bunder, thence along the aforesaid Wharf up to Signal Hill Avenue, thence along the South side of the New 80 feet Road and South of N to B Sheds in the Cotton Green up to Cotton Avenue then along the North side of Cotton Avenue up to the 1st Avenue and then along the South side of 1st Avenue to Reay Road, thence Northward along the West side of Reay Road to Kalachowky Road, thence along the South side of Kalachowky Road to the starting point, viz., junction of Kalachowky and Parel Road.	6
12	1st Nagpada 2nd Nagpada. Kamathipura.	A line starting from the junction of Suklaji Street and Grant Road extending Eastward along the North side of Grant Road and Babula Tank Road and the West side of Mazgaon Road to its junction with Nesbit Road, thence along the South side of Nesbit Road cutting across Victoria Gardens Road to Shephard Road, thence along the South side of Shephard Road, thence Southward along the East side of Clare Road to its junction with Bellasis Road, thence along the south side of Bellasis Road to its junction with Suklaji Street, thence along the East side of Suklaji Street to the starting point, viz., the junction of Grant Road and Suklaji Street.	6

[Appendix 12—contd.]

SCHEDULE B—contd.

Con- secu- tive No.	Name of Ward or Division.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
13	Byculla	A line starting from the junction of Victoria Gardens Road and Shephard Road extending along the North side of Shephard Road, thence Southward along the West side of Claro Road up to Bellasis Road thence along the North side of Bellasis Road up to the B. B. & C. I. Railway lines, thence along the East side of the B. B. & C. I. Railway lines up to its junction with Clerk Road, thence Eastward along the South side of Clerk Road, Jacob Circle, and Arthur Road to Chinchpokli Station, thence cutting across Chinchpokli Station to Kalachowky Road, thence along the South side of Kalachowky Road up to its junction with Parel Road, then Southward along the West side of Parel Road, and Victoria Gardens Road to the starting point, viz., the junction of Victoria Gardens Road and Shephard Road.	7
14	Parel	A line starting from the G. I. P. Railway Parel Station extending Eastward along the South side of Elphinstone Road and Jerbai Wadia Road to its junction with Parel Tank Road, thence along the West side of Parel Tank Road and North side of Kalachowky Road to G. I. P. Railway Chinchpokli Station, thence Northward along the East side of G. I. P. Railway Lines to Parel Station.	5
15	Sewri-Naigaum	A line starting from the junction of 1st Avenue and Reay Road extending Northward along the South side of Reay Road and Parel Tank Road, thence Westward along the North side of Jerbai Wadia Road and Elphinstone Road to its junction with G. I. P. Railway lines, thence Northward along the East side of G. I. P. Railway lines up to its junction with the Naigaum Cross Road, thence along the South side of Naigaum Cross Road, thence Northward along the East side of Katrak Road to its junction with Sewri Cross Road, thence along the West side of Sewri Cross Road to its junction with	5

[Appendix 12—contd.]

SCHEDULE B—contd.

Con-secutive No.	Name of Ward or Division.	Description of boundaries.	Number of members of the Corporation to be elected for each ward.
		the extension of Jerbai Wadia Road, thence Eastward in a line with the Jerbai Wadia Road extension to Khadkal Creek, thence Southwards along the Harbour to the South side of Brick Bunder, thence Westward up to its junction with Signal Hill Avenue and thence along the North side of the New 89 feet Road North of N to B Sheds in the Cotton Green up to its junction with Cotton Avenue, thence Northward along Cotton Avenue up to its junction with 1st Avenue and thence Westward along 1st Avenue up to the starting point, viz., the junction of Reay Road and 1st Avenue.	
16	Matunga-Sion	A line starting from G. I. P. Railway Dadar Station extending along the North side of Naigaum Cross Road and West side of Katrak Road to its junction with Sewri Cross Road and thence along the East side of Sewri Cross Road up to its junction with the extension of Jerbai Wadia Road, thence Eastwards in a straight line with the Jerbai Wadia Road extension to Khadkal Creek, thence along the Sea Northwards to the Northern limit of Bombay, thence Southwards along the East side of G. I. P. Railway Lines to Dadar Station.	4
17	Dadar-Mahim	A line starting from the middle of Mahim Causeway (from Bombay Limit), thence Southward, West of Mahim Causeway along the sea up to Kashinath Dhuru Road, thence along the North side of the aforesaid Road to its junction with Portuguese Church Street, thence along the North side of Portuguese Church Street and Dadar Road to its junction with the G. I. P. Railway Dadar Station; thence Northward along the West side of the G. I. P. Railway lines to the Northern Boundary of the City, thence across the creek to the North of Rewah Fort to the starting point, viz., middle point of Mahim Causeway.	4

[Appendix 12—contd.]

SCHEDULE B—contd.

Con- secu- tive No.	Name of Ward or Division.	Description of boundaries.	Number of members of the Corpora- tion to be elected for each ward.
18	Parbhadevi-Worli	A line starting from the G. I. P. Rail- way Dadar Station extending along the West side of the G. I. P. Railway lines, Southward up to the G. I. P. Railway Store Yard, thence Westward cutting the yard up to the foot of DeLisle Road over bridge, and thence along the West of West Low Level Road up to Fergu- son Road, thence along the North side of Ferguson Road and Worli Road up to its junction with Pochkhana- wala Road, thence along the North side of Pochkhanswala Road to Sea, thence Northward along the Sea to Worli point, thence along the Sea (Mahim Bay) up to its junction with Kashinath Dhuru Road, thence along the South side of the aforesaid Road to Portuguese Church Street, thence along the South side of Portuguese Church Street and Dadar Road to G. I. P. Rail- way Dadar Station.	5
19	Chinchpokli-Love Grove	A line starting from the junction of Pochkhanswala Road and Worli Sea face extending along the South side of Pochkhanswala Road, Worli Road and Ferguson Road, thence Northward along the East side of Low Level Road up to the foot of DeLisle Road over bridge, thence cutting across G. I. P. Railway Store Yard to G. I. P. Rail- way Lines, thence Southward along the West side of G. I. P. Railway lines up to Chinchpokli Station, thence West- ward along the North side of Arthur Road, Jacob Circle and Clerk Road to Sea, thence Northward along the Sea to the starting point, viz., junction of Pochkhanswala Road and Worli Sea- face.	4
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